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Presidential Documents

Title 3—

The President

Proclamation 5641 of April 28, 1987

Mother's Day, 1987

By the President of the United States of America

A Proclamation

For more than 70 years, we Americans have set aside the second Sunday in May to honor our mothers and tell them of our love. No matter how often we express these tributes of the heart throughout the year, we choose to do so in a special way on Mother's Day.

That is because we know and can never forget all that our mothers have given us every day, year by year, in love and courage, in toil and sacrifice, in prayer and example, in faith and forgiveness. There is no love like a mother's—she who carries the child that God knits in the womb, she who nourishes and guides, she who teaches and inspires, she who gives of her heart and soul and self for the good and the happiness of her children and her family.

As mothers help give their families a stability rooted in love, steadfastness, devotion, and morality, they strengthen our communities and our Nation at the same time. Mother's Day is a wonderful time for each of us to give thanks for America's mothers and for all they mean and have meant to our country and our history. It is also a time to thank our own mothers; and whether we may do this in person still, or by loving memory, let us do it with all the love and thanks and prayer we possess.

In recognition of the contributions of mothers to their families and to our Nation, the Congress, by a joint resolution approved May 8, 1914 (38 Stat. 770), has designated the second Sunday in May each year as Mother's Day and requested the President to call for its appropriate observance.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby request that Sunday, May 10, 1987, be observed as Mother's Day. I urge all Americans to express their love and respect for their mothers and to reflect on the importance of motherhood to the well-being of our country. I direct government officials to display the flag of the United States on all Federal government buildings, and I urge all citizens to display the flag at their homes and other suitable places on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 87-9999
Filed 4-29-87; 10:44 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5642 of April 28, 1987

Father's Day, 1987

By the President of the United States of America

A Proclamation

By tradition, Americans celebrate the third Sunday in June as Father's Day in honor of the immense and indispensable contributions fathers make to our lives and to our Nation. They deserve our thanks and recognition every day of the year and especially on Father's Day.

Fatherhood is all about the things that matter most—about love and new life, about trust and responsibility, about faithfulness to a family and to a calling. Fathers must be many things, but most of all they must be selfless. Fathers seek to give their children a share of the world's goods and an even greater share of its goodness; they must have the skill and strength to see to the immediate needs of their families and the wisdom to see to their children's lifelong need for character and conviction. They anxiously strive to impart to their sons and daughters a sense of their heritage and a notion of their obligations to one another and to the future.

Fathers take on these tasks out of love, and for their wages they want most the love and honor of their children and the respect of their community. With these, they can find peace and joy in the midst of the daily hardships and frustrations they face as parents and providers. What fathers do for their families, they do for our country as well, because the strong and loving families they help create are the soul of a nation. For all that fathers do, we show our heartfelt thanks and offer our love and prayers on the day every father can call his own.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in accordance with a joint resolution of the Congress approved April 24, 1972 (36 U.S.C. 142a), do hereby proclaim Sunday, June 21, 1987, as Father's Day. I invite the States and communities and people of the United States to observe that day with appropriate ceremonies as a mark of appreciation and abiding affection for their fathers. I direct government officials to display the flag of the United States on all Federal government buildings, and I urge all Americans to display the flag at their homes and other suitable places on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 87-10000
Filed 4-29-87; 10:45 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12594 of April 28, 1987

President's Volunteer Action Award

By the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered as follows:

Section 1. The President's Volunteer Action Award is hereby established for the purposes of recognizing outstanding voluntary contributions by individuals and organizations toward helping others in our society, and of demonstrating to all Americans what can be accomplished through voluntary action. The award shall consist of a sterling silver medallion, the design of which accompanies and is hereby made a part of this Order.

Sec. 2. The award may be presented by the President to recipients in ten categories: arts and humanities, education, the environment, health, human services, international volunteering, mobilization of volunteers, public safety, youth, and the workplace. The National Voluntary Service Advisory Council, in cooperation with the White House Office of Private Sector Initiatives, shall recommend recipients of the award to the President. The President may select for the award any person recommended to the President or any person selected by the President upon his own initiative.

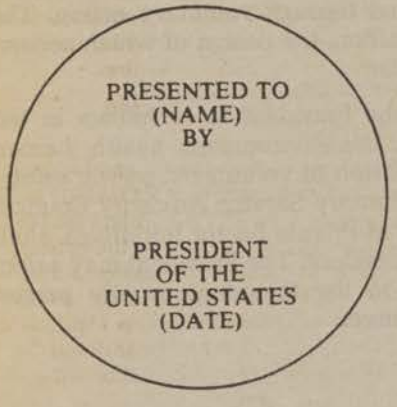
Ronald Reagan

THE WHITE HOUSE,
April 28, 1987.

Billing code 3195-01-M



OBVERSE



REVERSE

ACTUAL SIZE

[FR Doc. 87-10001
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Rules and Regulations

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 315 and 316

Noncompetitive Appointment of Certain Former Overseas Employees

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments requested.

SUMMARY: The Office of Personnel Management (OPM) is issuing regulations to implement Executive Order 12585 (Eligibility of Overseas Employees for Noncompetitive Appointment) of March 3, 1987. This Executive order amended Executive Order 12362, of May 12, 1982, to expand the eligibility of certain former overseas employees for noncompetitive civil service appointment. These interim regulations contain the new eligibility criteria for appointment under Executive Order 12585 and authorize Federal agencies to make appointments under these new criteria effective immediately.

DATE: Regulations effective April 30, 1987. Comments must be received on or before June 29, 1987.

ADDRESS: Send or deliver written comments to Chief, Staffing Policy Division; Room 6504; Career Entry Group; Office of Personnel Management; 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Ed McHugh or Ellen Russell, (202) 632–6817.

SUPPLEMENTARY INFORMATION: On March 3, 1987, the President issued Executive Order 12585 to increase civil service employment opportunities for family members of U.S. Government personnel who have worked while accompanying their sponsor on an overseas tour of duty.

The new Executive order expands the eligibility of family members for noncompetitive appointment which was first provided under E.O. 12362 in May 1982. The earlier Executive order was designed to overcome the growing reluctance of U.S. Government employees and military personnel to accept overseas assignments because of the disruption such tours caused in the employment careers of their spouses. The Executive order enabled family members (i.e., spouses and children under 23) who work a total of 24 months in overseas positions while accompanying their sponsor and meet certain other requirements, to receive direct appointments to Federal positions when they return to the United States. Over 4300 returning family members were hired by Federal agencies in the United States in the first 3 years since Executive Order 12362 was issued.

The new Executive order revises the eligibility criteria for noncompetitive appointment and will allow even more family members to qualify for employment when they return to the United States. Specifically, it—

- *Reduces* the amount of overseas employment needed to qualify for noncompetitive appointment from 24 months to *18 months;*
- *Increases* the period during which the family member can be hired after returning to the United States from 2 to *3 years* (with provision for further extension in hardship cases);
- Makes family members of *nonappropriated fund employees* who have worked overseas eligible for Stateside employment on the same basis as family members of civilian employees and military personnel; and
- Allows Federal agencies in the United States to waive requirements for a written test when hiring family members for jobs that are similar to those they held overseas.

Eligible candidates for this program must also be U.S. citizens at the time they apply for appointment in the United States, and must have received a fully successful or better performance rating for their overseas service. They must provide documentation of their overseas service and family member status when applying for employment in the United States.

The provisions of the new Executive order are effective upon publication of these regulations. For the convenience of both commenters and employing agencies, the entire relevant text of Part 315 (incorporating the changes made by E.O. 12585) is being reprinted. Some individuals who did not have enough overseas service to be eligible under the criteria of E.O. 12362 may now be qualified under the criteria of the new Executive order. Similarly, some individuals whose eligibility has expired may also now be eligible. For example, an otherwise eligible individual who had only 18 months of overseas employment when he or she returned to the United States 2½ years ago, would now be eligible for appointment under the new Executive order during the next 6 months; i.e., until their 3-year limit on appointment eligibility expires.

Waiver of Notice of Proposed Rulemaking

To allow candidates for employment to obtain the benefits of E.O. 12585 in the quickest manner possible, I find that good cause exists to waive the general notice of proposed rulemaking and to make this amendment effective in less than 30 days. This will allow eligibles to be appointed immediately and will avoid hardship that could otherwise occur.

E.O. 12291 Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects Federal employees.

List of Subjects in 5 CFR Parts 315 and 316

Government employees.

Office of Personnel Management.
Constance Horner,
Director.

Accordingly, OPM is amending Parts 315 and 316 of Title 5, Code of Federal Regulations, as follows:

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

1. The authority citation for Part 315 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR 1954–1958 Comp. p. 218 §§ 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652; §§ 315.602 and 315.604

also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec. 3(5); § 315.605 also issued under E.O. 12034, 43 FR 1917, Jan. 13, 1978; § 315.606 also issued under E.O. 11219, 3 CFR 1964–1965 Comp., p. 303; § 315.607 also issued under 22 U.S.C. 2506, 93 Stat. 371, E.O. 12137; 22 U.S.C. 2506, 94 Stat. 2158; § 315.608 also issued under E.O. 12362, 47 FR 21231, as revised by E.O. 12585, 52 FR 6773; § 315.610 also issued under 5 U.S.C. 3304(d), Pub. L. 99–586; Subpart I also issued under 5 U.S.C. 3321, E.O. 12107.

2. Section 315.608 is revised to read as follows:

§ 315.608 Noncompetitive appointment of certain former overseas employees.

(a) Under the authority of Executive Order 12362, as revised by Executive Order 12585, an agency in the executive branch may appoint, noncompetitively to a competitive service position within the United States, an individual who is a citizen of or owes permanent allegiance to the United States and who—

(1) Has accumulated 18 months of creditable overseas service in an appropriated fund position(s) under a local hire appointment(s) within any 10-year period beginning after January 1, 1980;

(2) Has received a fully successful or better (or equivalent) performance rating for the period of creditable overseas service. (This requirement applies to service accrued after January 1, 1984);

(3) Was a family member of a civilian employee, a nonappropriated fund employee, or a member of a uniformed service (the sponsor) who was officially assigned to the overseas area and was in this status during the 18-month period of creditable overseas service;

(4) Has accompanied the sponsor on official assignment in the overseas area during the period of creditable overseas service;

(5) Meets all qualification requirements for the position in the United States to which being appointed, except that an agency may waive the requirement for a written test after determining that the duties and responsibilities of the position the family member occupied overseas were similar enough to those of the position for which the individual is being appointed to make the written test unnecessary; and

(6) Is appointed within 3 years after returning to the United States from the overseas tour of duty (during which he or she acquired eligibility by meeting the requirements of paragraphs (a) (1) through (4) of this section) or as otherwise authorized under the provisions of paragraph (f) of this section.

(b) *Definitions.* In this subpart—

"Accompanied the sponsor on official assignment in the overseas area" means that the family member resided in the overseas area while the sponsor was officially assigned to an overseas post of duty. The family member need not have physically resided with the sponsor at all times or have traveled with the sponsor to or from the overseas area.

"Creditable overseas service" means the period of employment when the employee was serving under a local hire appointment(s) with a fully successful or better performance rating and residing in the overseas area as a family member accompanying a sponsor on official assignment.

"Family member" means a spouse or an unmarried child (under 23 years of age) of a member of a uniformed service, a Federal civilian employee, or a nonappropriated fund employee officially assigned to an overseas area.

"Federal civilian employee" means an employee of the executive, judicial, or legislative branch of the Government of the United States who is officially assigned to an overseas area and serves in an appropriated fund position.

"Local hire appointment" means an appointment made from applicants residing in the overseas area that is not actually or potentially permanent. In this subpart only, this definition includes (1) nonpermanent employment as a local national employee paid from appropriated funds, or under 50 U.S.C. 403j, Pub. L. 86–36, or the Berlin Tariff Agreement; (2) overseas limited appointment under 5 CFR 301.201; (3) nonpermanent excepted appointment under Schedule A (213.3106(b)(6) or 213.3106 (d)(1)); (4) an "American family member" or "Part-time intermittent temporary" appointment in U.S. diplomatic establishments; or (5) any other nonpermanent appointment in the competitive or excepted service so designated by OPM in the Federal Personnel Manual.

"Member of a uniformed service" means personnel of the Armed Forces (including the Coast Guard), the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration officially assigned to an overseas area.

"Nonappropriated fund employee" means an employee paid from nonappropriated funds of the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Stores Ashore, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or other instrumentalities of the United States.

"Overseas area" means a duty location outside the 50 States of the United States, the District of Columbia, Guam, Puerto Rico, or the Virgin Islands.

"United States" means the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(c) *Conditions.* Any law, Executive order, or regulation that disqualifies an applicant for appointment also disqualifies the applicant for appointment under this section.

(d) *Tenure of appointment.* A person appointed under this section becomes a career-conditional employee.

(e) *Acquisition of competitive status.* A person appointed under this section acquires competitive status automatically upon completion of probation.

(f) *Extension of period of employment eligibility.* OPM may approve, and delegate to agencies the authority to approve, extension of an individual's appointment eligibility beyond the 3 years provided in § 315.608(a)(5) for periods equivalent to—

(1) The time an eligible family member was accompanying a sponsor on official assignment to an area of the United States with no significant Federal employment opportunities; or

(2) The time an eligible family member was incapacitated for employment.

PART 316—TEMPORARY AND TERM EMPLOYMENT

4. The authority citation for Part 316 is revised to read as follows; and the authority following any sections in Part 316 is removed:

Authority: 5 U.S.C. 3301 and 3302, and E.O. 10577 (3 CFR, 1954–1958 Comp., p. 218); § 316.302 also issued under 5 U.S.C. 3304(c), 38 U.S.C. 2014, and E.O. 12362, as revised by E.O. 12585, § 316.402 also issued under 5 U.S.C. 3304(c) and 3312, 22 U.S.C. 2506, (93 Stat. 371, E.O. 12137), 38 U.S.C. 2014, and E.O. 12362, as revised by E.O. 12585.

5. Section 316.302(c)(3) is revised to read as follows:

§ 316.302 Selection of term employees.

(c) * * *

(3) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, 315.606, 315.608, or 315.609 of this chapter;

* * * * *

6. Section 316.402(b)(2) is revised to read as follows:

§ 316.402 Authorities for temporary appointments.

(b) * * *

(2) A person eligible for career or career-conditional appointment under

§§ 315.601, 315.605, 315.606, 315.607, 315.608, or 315.609 of this chapter;

* * * * *

[FR Doc. 87-9748 Filed 4-29-87; 8:45 am]
BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 261

[Docket No. R-0602]

Policy Statement; Responsibility of Bank Holding Companies to Act as Sources of Strength to Their Subsidiary Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy Statement.

SUMMARY: Pursuant to its authority to regulate bank holding companies under the Bank Holding Company Act, the Federal Deposit Insurance Act, and the International Lending Supervision Act, the Board of Governors of the Federal Reserve System issues a reaffirmation of its long-standing policy that bank holding companies should act as sources of strength to their subsidiary banks by standing ready to use available resources to provide adequate capital funds to subsidiary banks during periods of financial stress or adversity.

DATES: Effective Date: April 24, 1987. Comments must be received by July 1, 1987.

ADDRESS: Interested parties may submit comments concerning the policy statement for the Board's review. Comments should include reference to Docket No. R-0602 and should be mailed to the Secretary, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW., Washington, DC 20551 or delivered to the guard station in the Eccles Building Courtyard on 20th Street NW. (between Constitution Avenue and C Street NW.). Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information. (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Stephen C. Schemering, Deputy Associate Director, Division of Banking Supervision and Regulation, (202) 452-2433; or Richard Spillenkothen, Deputy Associate Director, Division of Banking Supervision and Regulation, (202) 452-2594; or for the hearing impaired *only*, Telecommunications Device for the Deaf ("TDD"), Earnestine Hill or Dorothea Thompson (202) 452-3544, Board of Governors of the Federal Reserve System, Washington DC 20551.

SUPPLEMENTARY INFORMATION: The Board has become aware of situations where a bank has been threatened with failure notwithstanding the availability of resources to its parent bank holding company. In order to assure that the Board's policy that bank holding companies serve as sources of strength to subsidiary banks is fully understood by bank holding companies, the Board believes it appropriate to issue a general policy statement reaffirming and articulating these principles, and confirming that the policy applies in failing bank situations. This long-standing policy has been recognized by the Supreme Court in its decision in *Board of Governors* v. *First Lincolnwood Corp.*, 439 U.S. 234 (1978), and has been incorporated explicitly in the Board's Regulation Y, 12 CFR 225.4(a)(1). The Board invites interested parties to comment on this policy and intends to review the Policy Statement in light of such comments.

Policy Statement on the Responsibility of Bank Holding Companies to Act as Sources of Strength to Their Subsidiary Banks

A fundamental and long-standing principle underlying the Federal Reserve's supervision and regulation of bank holding companies is that bank holding companies should serve as sources of financial and managerial strength to their subsidiary banks. It is the policy of the Board that in serving as a source of strength to its subsidiary banks, a bank holding company should stand ready to use available resources to provide adequate capital funds to its subsidiary banks during periods of financial stress or adversity and should maintain the financial flexibility and capital-raising capacity to obtain additional resources for assisting its subsidiary banks in a manner consistent with the provisions of this policy statement.

Since the enactment of the Bank Holding Company Act in 1956, the Board has formally stated on numerous occasions that a bank holding company should act as a source of financial and managerial strength to its subsidiary banks. As the Supreme Court recognized in the 1978 *First Lincolnwood* decision, Congress has expressly endorsed the Board's long-standing view that a holding company must serve as a "source of strength to subsidiary financial institutions."[1] In addition to frequent pronouncements over the years and the 1978 Supreme Court decision, this principle has been incorporated explicitly in Regulation Y since 1983. In particular, § 225.4(a)(1) of Regulation Y provides that:

> A bank holding company shall serve as a source of financial and managerial strength to its subsidiary banks and shall not conduct its operations in an unsafe or unsound manner.

The important public policy interest in the support provided by a bank holding company to its subsidiary banks is based upon the fact that, in acquiring a commercial bank, a bank holding company derives certain benefits at the corporate level that result, in part, from the ownership of an institution that can issue federally insured deposits and has access to Federal Reserve credit. The existence of the federal "safety net" reflects important governmental concerns regarding the critical fiduciary responsibilities of depository institutions as custodians of depositors' funds and their strategic role within our economy as operators of the payments system and impartial providers of credit. Thus, in seeking the advantages flowing from the ownership of a commercial bank, bank holding companies have an obligation to serve as sources of strength and support to their subsidiary banks.

An important determinant of a bank's financial strength is the adequacy of its capital base. Capital provides a buffer for individual banking organizations to absorb losses in times of financial strain, promotes the safety of depositors' funds, helps to maintain confidence in the banking system, and supports the reasonable expansion of banking organizations as an essential element of a strong and growing economy. A strong capital cushion also limits the exposure of the federal deposit insurance fund to losses experienced by banking institutions. For these reasons, the Board has long considered adequate capital to be critical to the soundness of individual banking organizations and to the safety and stability of the banking and financial system.

Accordingly, it is the Board's policy that a bank holding company should not withhold financial support from a subsidiary bank in a weakened or failing condition when the holding company is in a position to provide the support. A bank holding company's failure to assist a troubled or failing subsidiary bank under these circumstances would generally be viewed as an unsafe and unsound banking practice or a violation of

[1] *Board of Governors* v. *First Lincolnwood Corp.*, 439 U.S. 234, 252 (1978), citing S. Rep. No. 95-323, 95th Cong., 1st Sess. 11 (1977).

Regulation Y or both. Where necessary, the Board is prepared to take supervisory action to require such assistance. Finally, the Board recognizes that there may be unusual and limited circumstances where flexible application of the principles set forth in this policy statement might be necessary, and the Board may from time to time identify situations that may justify exceptions to the policy.

This statement is not meant to establish new principles of supervision and regulation; rather, as already noted, it builds on public policy considerations as reflected in banking laws and regulations and long-standing Federal Reserve supervisory policies and practices. A bank holding company's failure to meet its obligation to serve as a source of strength to its subsidiary bank(s), including an unwillingness to provide appropriate assistance to a troubled or failing bank, will generally be considered an unsafe and unsound banking practice or a violation of Regulation Y, or both, particularly if appropriate resources are on hand or are available to the bank holding company on a reasonable basis. Consequently, such a failure will generally result in the issuance of a cease-and-desist order or other enforcement action as authorized under banking law and as deemed appropriate under the circumstances.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 87-9729 Filed 4-29-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-23-NM-AD; Amdt. 39-5617]

Airworthiness Directives; Boeing Model 707 and 727; McDonnell Douglas Model DC-8, DC-9, and DC-10; Lockheed Model L-1011; Fairchild Model F-27; de Havilland Model DHC-7; Nihon Model YS-11A; and Grumman G-1 Series Airplanes; Equipped With Floor-Mounted Proximity Lighting Systems Manufactured by Plumly Airborne Products, and Installed in Accordance With Certain Supplemental Type Certificates (STC)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Boeing Model 707 and 727; McDonnell Douglas Model DC-8, DC-9, and DC-10; Lockheed Model L-1011; Fairchild Model F-27; de Havilland Model DHC-7; Nihon Model YS-11A; and Grumman Model G-1 series airplanes by individual telegrams. This AD requires certain floor-mounted proximity lighting systems to be deactivated, a modification to be incorporated which will prevent overheating in the floor lighting assemblies, and repetitive inspections of the floor-mounted units in certain corrosion-prone areas.

DATES: Effective May 18, 1987.

This AD was effective earlier to all recipients of telegraphic AD T87-05-81, dated March 5, 1987.

ADDRESSES: The applicable service information may be obtained from Plumly Airborne Products, Highway 377 South, P.O. Box 26868, Fort Worth, Texas 76126-0868. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: J.W. Ward, Aerospace Engineer, Special Programs Branch, ASW-190, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106; telephone (817) 624-5189.

SUPPLEMENTARY INFORMATION: On March 5, 1987, the FAA issued telegraphic AD T87-05-51, applicable to various transport category airplanes equipped with floor-mounted proximity lighting systems manufactured by Plumly Airborne Products, which requires the floor lighting system be deactivated and a modification be incorporated no later than July 1, 1987, that is found acceptable by FAA to effectively eliminate the unsafe condition caused by overheating of the floor lighting system. The AD was prompted by several reports of electrical short circuits occurring in the Plumly floor-mounted proximity lighting assemblies. These short circuits were determined to have been caused by corrosion created by the low constant electrical energy in the components, the presence of moisture in the components, or a combination of these and other factors. The corrosion creates a high resistance (short) circuit, which causes intense local heating in a short time period. The heating eventually melts the plastic housing, chars the carpet and light assemblies, and creates smoke.

Since issuance of AD T87-05-81, Plumly Airborne Products has issued Service Information Letter 87-02, dated March 19, 1987, which describes a modification consisting of an alternate wiring installation and moisture-proofing procedures for floor light assemblies. The FAA has determined that this is an acceptable modification that will eliminate the unsafe condition associated with corrosion caused by the presence of continuous electrical current and moisture intrusion in the assemblies; the final rule has been revised to require the installation of this modification.

While the modification has been determined to be effective in correcting the unsafe condition, it may be subject to degradation due to repeated cabin pressurization changes and other environmental conditions. Therefore, the final rule has also been revised to require repetitive inspections of the floor-mounted lighting assemblies to verify the absence of corrosion on the light assemblies and to verify that the altitude pressure relief holes have not been blocked by the applied silicone compound.

Since a situation existed, and still exists, that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under 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/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.39.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing, McDonnell Douglas, Lockheed, Dehavilland, Fairchild, Nihon, and Grumman:

Applies to the models and series airplanes listed below, certificated in any category, equipped with floor proximity emergency escape path marking systems manufactured by Plumly Airborne Products. Most of these systems were installed in accordance with Supplemental Type Certificates (STC) issued to either Plumly Airborne Products or International Aircraft Certification Service, including the following:

STC No.	Airplane
SA3500SW	Boeing 707-323C.
SA3500SW	(REV) Boeing 707 series.
SA3626SW	Boeing 727-100.
SA3636SW	Boeing 727-100.
SA3688SW	Boeing 727-100.
SA3689SW	DC-9-15.
SA3691SW	Boeing 727-200.
SA3694SW	Nihon YS-11A.
SA3695SW	Lockheed L-1011.
SA3696SW	DC-8-62; -63.
SA3697SW	de Havilland DHC-7.
SA3698SW	DC-9-15, -50, -80.
SA3699SW	DC-10.
SA3700SW	Lockheed L-1011.
SA3701SW	Nihon YS-11A.
SA3706SW	Fairchild F-27.
SA495NE	Grumman G-1.

Compliance is required as indicated, unless previously accomplished.

To eliminate the potential for fire due to electrical short circuits in the floor proximity lighting system, accomplish the following:

A. Within the next 48 hours after the effective date of this AD, deactivate the Plumly Airborne Products floor proximity lighting system as follows:

1. Disconnect the control unit(s), Plumly part numbers PA-200 or PA-200-XX, and remove from the airplane.

2. Disconnect the remote unit(s), Plumly part number PA-300, and remove from the airplane.

3. Stow all loose wires in accordance with accepted practices.

4. Pull and tie off 5 amp (115 volt) circuit breaker for control unit power (in cockpit).

5. Make notation in aircraft logbook regarding deactivation of the proximity floor lighting system.

B. Within 90 days after the effective date of this AD accomplish one of the following:

1. Replace the system with another FAA-approved system; or

2. Modify the wiring installation and accomplish the moisture proofing procedures for floor lighting assemblies in accordance with Plumly Airborne Products Service Information Letter 87-02, dated March 19, 1987.

Note.—Once this modification is accomplished, the floor proximity lighting system must be reactivated to comply with FAR 121.310(c)(3).

C. Within 6 months after modification in accordance with paragraph B., above, is accomplished, and thereafter at intervals not to exceed 6 months, inspect the floor-mounted light units located near the galley, lavatory, and passenger/service door exits, in accordance with Plumly Airborne Products Service Information Letter 87-02, dated March 19, 1987, to detect any corrosion of the light assemblies or blockage of the altitude pressure relief holes. Any floor-mounted units that show evidence of liquid intrusion or cracked covers must also be inspected.

1. If evidence of corrosion is found, clean and reseal the units in accordance with procedures described in Plumly Airborne Products Service Information Letter 87-02, dated March 19, 1987, or replace with new units.

2. Altitude pressure relief hole areas that are found to be blocked must be cleaned.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Special Programs Branch, Aircraft Certification Division, FAA, Southwest Region.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to Plumly Airborne Products, Highway 377 South, P.O. Box 26868, Fort Worth, Texas 76126-0868. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

This amendment becomes effective May 18, 1987, as to all persons, except those persons to whom it was made immediately effective by telegraphic AD T87-05-51, issued March 5, 1987.

Issued in Seattle, Washington, on April 23, 1987.

Robert E. Waiblinger,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-9713 Filed 4-29-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AEA-6]

Establishment of Transition Area, Edgewood, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Notice establishes a transition area at Edgewood, MD. Two new RNAV Runway 1 and 19 instrument approach procedures have been developed to the Weide Army Air Field, Edgewood, MD. The transition area will provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR).

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

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

SUPPLEMENTARY INFORMATION:

History

On December 31, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Edgewood, MD, to provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR), (51 FR 47254). Interested parties were invited to participate in this proposed rulemaking proceeding by submitting written comments to 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 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations is to establish a transition area at Edgewood, MD. This action, when taken, will provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR).

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

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

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; E.O. 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:

Edgewood, MD (New)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center (lat. 39°23'00" N., long. 76°18'00" W.) of Weide Army Air Field, Maryland, and within 4.5 miles either side of a line drawn between the center (lat. 39°23'00" N., long. 76°18'00" W.) of Weide Army Air Field, MD, and a point (lat. 39°09'05" N., long. 76°13'43.9' W.), out of 12 miles from the airport center and within 4.0 miles either side of a line drawn between the center (lat. 39°23'00" N., long. 76°18'00" W.) of Weide Army Air Field, MD, and a point (lat. 39°35'15.4" N., long. 76°18'02" W.), out to 12 miles from the airport center; excluding the airspace in R-4001A & B and the Martin and Phillips Airport Transition Areas.

Issued in Jamaica, New York, on April 20, 1987.

Edmund Spring,

Manager, Air Traffic Division.

[FR Doc. 87-9712 Filed 4-29-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AEA-8]

Alteration of Control Zone, Patuxent River, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the published description of the Patuxent River, MD, Control Zone to reflect minor adjustments to the parameters of the Control Zone. The intended effect of this action is to ensure segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

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

SUPPLEMENTARY INFORMATION:

History

On January 7, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the published description of Patuxent River, MD, to reflect minor adjustments to the parameters of the Control Zone, (52 FR 559) Interested parties were invited to participate in this proposed 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 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations is to alter the published description of Patuxent River, MD, Control Zone to reflect minor adjustments to the parameters of the Control Zone. This action, when taken, will ensure segregation of aircraft, using instrument approach procedures in instrument conditions, from other aircraft operating under visual weather conditions in controlled airspace.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Patuxent River, MD (Revised)

Within a 5-mile radius of the center, (Lat. 38°17'15" N., Long. 76°24'30" W.), of Patuxent River, NAS (Trapnell Field) Patuxent River, MD; within 2 miles each side of the Patuxent VORTAC 045° radial, extending from the 5-mile radius zone to 7 miles northeast of the VORTAC; within 2 miles each side of the Patuxent VORTAC 235° radial extending from the 5-mile radius zone to 7.5 miles southwest of the VORTAC, within 2 miles each side of the LF RBN 233° bearing extending from the 5-mile radius zone to 7 miles southwest of the RBN; within 2 miles each side of the Patuxent VORTAC 139° radial, extending from the 5-mile radius zone to 12 miles southeast of the VORTAC; and within a ½-mile radius of the center, (Lat. 38°21'40" N., Long. 76°24'15" W.), of Chesapeake Ranch Airpark.

Issued in Jamaica, New York, on April 20, 1987.

Edmund Spring,

Manager, Air Traffic Division.

[FR Doc. 87-9707 Filed 4-29-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AEA-9]

Alteration of Control Zone, Plattsburgh, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the published description of the Plattsburgh, NY, Control Zone. The intended effect of this action is to provide airspace protection for aircraft using a new VOR Runway 19 standard instrument approach procedure in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

FOR FURTHER INFORMATION CONTACT: Glenn A. Bales, Airspace Planning

Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917–1228.

SUPPLEMENTARY INFORMATION:

History

On January 7, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the published description of the Plattsburgh, NY, Control Zone (52 FR 560). Interested parties were invited to participate in this proposed 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 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations is to alter the published description of the Plattsburgh, NY, Control Zone. This action, when taken, will provide airspace protection for aircraft using a new VOR Runway 19 standard instrument approach procedure in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

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; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.17 [Amended]

2. Section 71.171 is amended as follows:

Plattsburgh, NY (Amended)

By inserting the words "within 3 miles each side of the Plattsburgh, NY, VORTAC 350°T (005°M) radial, extending from the 5-mile radius of 8 miles north of the VORTAC;" after the words "of Clinton County Airport;".

Issued in Jamaica, New York, on. April 20, 1987.

Edmund Spring,

Manager, Air Traffic Division.

[FR Doc. 87–9709 Filed 4–29–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 86–AEA–5]

Alteration of Transition Area, Culpeper, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the existing transition area at Culpeper, VA. A new NDB-A instrument approach procedure has been developed to the Culpeper County, T.I. Martin Field Airport. The alteration of the transition area is to provide additional protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR).

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

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

SUPPLEMENTARY INFORMATION:

History

On January 5, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the existing transition area at Culpeper, VA. A new NDB-A instrument approach procedure has been developed to the Culpeper County, T.I. Martin Field Airport, (52 FR 297). Interested parties were invited to participate in this proposed 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 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations is to alter the existing transition area at Culpeper, VA, to accommodate a new NDB–A instrument approach procedure to the Culpeper County, T.I. Martin Field Airport. This action, when taken, will provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR). The FAA has determined that this amendment only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

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; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. 71.181 is amended as follows:

Culpeper, VA (Revised)

That airspace extending upward from 700 feet above the surface within an arc of a 6.5-mile radius, centered on the Culpeper County, T.I. Martin Field (Lat. 38°31'20" N., Long. 77°51'40" W.) and within 2.5 miles each side of the Casanova VORTAC 178° radial extending from the 6.5-mile radius arc to the VORTAC, and within 3 NM each side of the 025° bearing to the NDB extending from the 6.5 arc to 8.5 miles southwest of the RBN, excluding the portion that coincides with the Midland, VA, transition area.

Issued in Jamaica, New York, on April 20, 1987.

Edmund Spring,

Manager, Air Traffic Division.

[FR Doc. 87-9708 Filed 4-29-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AEA-7]

Establishment of Transition Area, Petersburg, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a transition area at Petersburg, WV. A new VOR/DME-A instrument approach procedure has been developed to the Grant County, Petersburg, WV Airport. The transition area is to provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR).

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

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

SUPPLEMENTARY INFORMATION:

History

On December 31, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Petersburg, WV. A new VOR/DME-A instrument approach procedure has been developed to the Grant County, Petersburg, WV Airport. The transition area is to provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR), (51 FR 47256). Interested parties were invited to participate in this proposed 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 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 2, 1986.

The Rule

This amendment of Part 71 of the Federal Aviation Regulations is to establish a transition area at Petersburg, WV. A new VOR/DME-A instrument approach procedure has been developed to the Grant County, Petersburg, WV Airport. This action, when taken, will provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR).

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

List of Subjects in 14 CFR Part 71

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; E.O. 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:

Petersburg, WV (New)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center (Lat. 38°59'35"N., Long. 78°08'34"W.) of Grant County Airport, Petersburg, WV and within 4 miles each side of the 214° radial of the Kessel, WV VORTAC (Lat. 39°13'31"N., Long. 78°59'23"W.) extending from the VORTAC to 15.6 NM of the VORTAC.

Issued in Jamaica, New York, on April 20, 1987.

Edmund Spring,

Manager, Air Traffic Division.

[FR Doc. 87-9710 Filed 4-29-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AEA-11]

Designation of Transition Area, Moundsville, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Notice designates a new transition area at Moundsville, WV. A new VOR/DME-A instrument approach procedure has been developed to the Marshall County, WV, Airport. The transition area will provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR).

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

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

SUPPLEMENTARY INFORMATION:

History

On December 18, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a new transition area at Moundsville, WV (51 FR 45344). Interested parties were invited to participate in this proposed 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 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations is to designate a new transition area at Moundsville, WV. This action, when taken, will provide protected airspace for aircraft departing/arriving under Instrument Flight Rules (IFR).

The FAA has determined that this amendment only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory

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

List of Subjects in 14 CFR Part 71

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; E.O. 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:

Moundsville, WV (New)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center (Lat. 39°52'52" N., Long. 80°44'09" W.), excluding that portion overlying the St. Clairsville, OH, and Wheeling, WV, 700-foot transition areas.

Issued in Jamaica, New York, on April 20, 1987.

Edmund Spring,

Manager, Air Traffic Division.

[FR Doc. 87-9711 Filed 4-29-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM84-6-034, Order No. 399-D]

Refunds Resulting From Btu Measurement Adjustments

Issued: April 24, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order prescribing flow-through requirements for Btu refunds received after November 5, 1986.

SUMMARY: The Federal Energy Regulatory Commission is adjusting pipeline flow-through procedures for late-paid Btu refunds under Order No. 399, 49 FR 37735 (September 29, 1984). The adjustments decrease the frequency with which small refund flow-throughs must be made to one instead of three times per year. This action responds to a request by Texas Eastern Transmission Corporation for a clarification of Order No. 399-C, 51 FR 41080 (November 13, 1986), which postponed the deadline for payment by first sellers of Btu refunds attributable to royalty interest owners, subject to pending petitions for waiver or postponement of payment deadlines.

EFFECTIVE DATE: June 1, 1987.

FOR FURTHER INFORMATION CONTACT: Robert L. Winters, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-9118.

SUPPLEMENTARY INFORMATION:

Order Prescribing Flow-Through Requirements for BTU Refunds Received After November 5, 1986

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

In Order No. 399-C,[1] issued November 5, 1986, the Commission postponed the deadline for payment of Btu refunds attributable to royalty interest owners for any first seller that has a petition pending for a waiver of or postponement of the deadline to pay such Btu refunds until 30 days after issuance of an order disposing of the petition.[2] On December 22, 1986, Texas Eastern Transmission Corporation filed a petition seeking clarification of Order No. 399-C. It stated that the Commission failed to address the effects of the interim relief granted in that order on pipelines that are required to flow through such Btu refund amounts to their customers.

Texas Eastern points out that because of Order No. 399-C, pipelines will be receiving Btu refunds subsequent to the final dates for making and reporting flow-through payments under § 154.38(h)(3)(v), (vi), (vii), (viii) and (ix) of the Commission's regulations.[3] It requests that the Commission allow a longer time period for pipelines to flow through small amounts of Btu refunds received after November 5, 1986.

The Commission notes that the problem indicated by Texas Eastern will also exist with regard to delinquent Btu refunds that are made either voluntarily or as a result of Commission enforcement activities. The issue raised by Texas Eastern is not limited to pipelines' receipt of Btu refunds paid late under Order No. 399-C, but arises anytime a pipeline receives Btu refunds after November 5, 1986. Therefore, the Commission has determined to amend §154.38(h) to provide for making flow-through payments of late-paid Btu refunds.

Paragraph (h)(3)(v) of § 154.38 is amended to provide that a pipeline may, at its option, defer passing through refunds for up to one year, as long as the accumulated refund amount is less than one mill per Mcf (or Dkt) for the pipeline's annual sales during calender year 1983, the maximum amount retainable under the current regulations. All refunds held by the pipeline are subject to the interest requirements of § 154.38(h)(3)(iv). The superseded holding period is up to 120 days. Because the amounts of refunds to be flowed through in the future will likely be smaller than in the past, a longer period is now established to reduce the burden of pipelines having to make frequent cash refunds of relatively small amounts of money.

Section 553 (b) of the Administrative Procedure Act[4] requires in most instances that a notice of proposed rulemaking be published in the **Federal Register** and that opportunity for comment be provided when an agency promulgates regulations. Section 553(b) sets forth an exception, however, when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. The Commission's staff calculates that over 90 percent of the outstanding Btu refunds have already been paid. Therefore, the adjustments to the regulations promulgated in this order merely continue, in the wind-up phase of this proceeding, the same form of refund distribution used previously. The adjustments promulgated here reduce the burden on the pipelines that make refunds, and they are not of such significance that further notice and comment are necessary. Moreover, these adjustments will affect only a pipeline that actually receives late-paid Btu

[1] 51 FR 41080 (Nov. 13, 1986); 37 FERC ¶ 61,091.

[2] In Order No. 399, 49 FR 37735 (Sep. 26, 1984), FERC Stats. & Regs. [Regulations Preambles 1982-1985] ¶ 30,597, the Commission established refund procedures for charges for natural gas that exceeded NGPA ceilings as a result of Btu measurements based on the water vapor content of the gas "as delivered," rather than on a water saturated basis. In so doing, the Commission was implementing the decision in Interstate Natural Gas Association of America v. Federal Energy Regulatory Commission, 716 F.2d 1 (D.C. Cir. 1983), *cert. denied*, 465 U.S. 1108 (1984).

[3] 18 CFR 154.38(h)(3) (1986).

[4] 5 U.S.C. 553(b) (1982).

refunds. In addition, customers of the pipeline will not be adversely affected, since the pipeline must pay interest on the amounts that are accrued. Moreover, the adjustment involve small amounts. For these reasons, the Commission finds that notice and public procedure on the amendments to the Commission's regulations adopted in this order are unnecessary. The amendments will become effective on June 1, 1987.

Texas Eastern's petition is granted to the extent set forth herein.

List of Subjects in 18 CFR Part 154

Alaska, Natural gas, Pipelines, Reporting and recording requirements.

In consideration of the foregoing, the Commission is amending Part 154, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 154—[AMENDED]

1. The authority citation for Part 154 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); EO 12009, 3 CFR Part 142 (1978); Administrative Procedure Act, 5 U.S.C. 551–557 (1982); Natural Gas Act, 15 U.S.C. 717–717w (1982); Federal Power Act, 16 U.S.C. 791a–828c (1982); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982); Interstate Commerce Act, 49 U.S.C. 1–27 (1982).

§ 154.38 [Amended]

2. In § 154.38, the second sentence of paragraph (h)(3)(v) is amended by removing the phrase, "such Btu refunds for a period greater than the earlier of 120 days from the date of receipt or 30 days after November 5, 1986" and inserting in lieu thereof the phrase, "any Btu refunds received after November 5, 1986, or November 5 of any year thereafter, and before November 6 of the following year, beyond December 5 of that following year."

[FR Doc. 87–9813 Filed 4–29–87; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Part 271

[Docket No. RM80–53]

Ceiling Prices; Maximum Lawful Prices and Inflation Adjustment Factors Under the Natural Gas Policy Act

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(k), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of May, June, and July, 1987. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: May 1, 1987.

FOR FURTHER INFORMATION CONTACT: Richard P. O'Neill, Director, OPPR, (202) 357–8500.

SUPPLEMENTARY INFORMATION:

Order of the Director, OPPR

Issued: April 24, 1987.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(k) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of May, June, and July, 1987, are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103(b)(1)(2), 105(b)(3), 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to May, 1987 are found in the tables in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural gas.

Raymond A. Beirne,

Deputy Director, Office of Pipeline and Producer Regulation.

Part 271—[Amended]

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 et seq.; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

§ 271.101 [Amended]

2. Section 271.101(a) is amended by inserting the maximum lawful prices for May, June, and July, 1987 in Tables I and II and by amending footnote 5 as follows:

TABLE I.—NATURAL GAS CEILING PRICES

[Other than NGPA Sections 104 and 106(a)]

Maximum lawful price per MMBtu for deliveries in:

Subpart of Part 271	NGPA section	Category of gas	May 1987	June 1987	July 1987
B	102	New Natural Gas, Certain OCS Gas [4]	$4.544	$4.572	$4.600
C	103(b)(1)	New Onshore Production Wells [5]	3.180	3.190	3.200
	103(b)(2)	New Onshore Production Wells [5]	3.862	3.881	
E	105(b)(3)	Intrastate Existing Contracts	4.447	4.471	4.495
F	106(b)(1)(B)	Alternative Maximum Lawful Price for Certain Intrastate Rollover Gas [1].	1.819	1.825	1.831
G	107(c)(5)	Gas Produced from Tight Formations [3]	6.360	6.380	6.400
H	108	Stripper Gas	4.866	4.896	4.926
I	109	Not Otherwise covered	2.634	2.642	2.650

[1] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. This alternative Maximum

Lawful Price for each month appears in this row of Table I. Commencing January 1, 1985, the price of some intrastate rollover gas is deregulated. (See Part 272 of the Commission's regulations.)

* * * * * * * *

[3] The maximum lawful price for tight formation gas is the lesser of the negotiated contract price or 200% of the price specified in Subpart C of Part 271. The maximum lawful price for tight formation gas applies on or after July 16, 1979. (See §§ 271.703 and 271.704.)

[4] Commencing January 1, 1985, the price of natural gas finally determined to be new natural gas under section 102(c) is deregulated. (See Part 272 of the Commission's regulations.)

[5] Commencing January 1, 1985, and July 1, 1987, the price of some natural gas finally determined to be natural gas produced from a new, onshore production well under section 103 is deregulated. (See Part 272 of the Commission's regulations.) Thus, for all months succeeding June 1987 publication of a maximum lawful price per MMBtu under NGPA section 103(b)(2) is discontinued.

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(A)

[Subpart D, Part 271]

Maximum lawful price per MMBtu for deliveries made in:

Category of natural gas	Type of Sale or Contract	May 1987	June 1987	July 1987
Post-1974 gas [2]	All producers	$2.634	$2.642	$2.650
1973–1974 Biennium gas	Small producer	2.226	2.233	2.240
	Large producer	1.701	1.706	1.711
Interstate Rollover gas	All producers	.979	.982	.985
Replacement contract gas or recompletion gas	Small producer	1.248	1.252	1.256
	Large producer	.960	.963	.966
Flowing gas	Small producer	.634	.636	.638
	Large producer	.534	.536	.538
Certain Permian Basin gas	Small producer	.744	.746	.748
	Large producer	.660	.662	.664
Certain Rocky Mountain gas	Small producer	.744	.746	.748
	Large producer	.634	.636	.638
Certain Appalachian Basin gas	North subarea contracts dated after 10–7–69	.603	.605	.607
	Other contracts	.558	.560	.562
Minimum rate gas [1]	All producers	.329	.330	.331

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.
[2] This price may also be applicable to other categories of gas. (See § 271.402, 271.602)

3. Section 271.102(c) is amended by inserting the inflation adjustment for the months of May, June, and July, 1987.

TABLE III.—INFLATION ADJUSTMENT

Month of Delivery 1987	Factor by which price in preceding month is multiplied
May	1.00303
June	1.00303
July	1.00303

[FR Doc. 87–9814 Filed 4–29–87; 8:45 am]
BILLING CODE 6717–01–M

18 CFR Part 282

[Docket No. RM79–14]

Incremental Pricing Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: May 1, 1987.

FOR FURTHER INFORMATION CONTACT: Richard P. O'Neill, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, (202) 357–8500.

SUPPLEMENTARY INFORMATION:

Order of the Director, OPPR

Issued: April 24, 1987.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of May, 1987 are issued by the publication of a price table for the month. The incremental pricing acquisition cost threshold prices for months prior to those reflected on the table are found in § 282.304.

The incremental pricing thresholds for May, 1987 reflect a two-month lag adjustment described in the notice of the March 1, 1986 thresholds.

List of Subjects in 18 CFR Part 282

Natural gas.

Raymond A. Beirne,

Deputy Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

[Calendar Year 1986]

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Incremental Pricing Threshold	$2.460	$2.467	$2.474	$2.481	$2.487	$2.493	$2.499	$2.504	$2.509	$2.514	$2.522	$2.530
NGPA section 102 threshold	4.166	4.191	4.216	4.241	4.264	4.287	4.310	4.332	4.354	4.376	4.403	4.431
NGPA section 109 threshold	2.539	2.546	2.553	2.560	2.566	2.572	2.578	2.583	2.586	2.593	2.601	2.609
130% of No. 2 fuel oil in New York City threshold	7.370	7.930	5.040	5.290	4.680	3.980	3.800	3.190	3.310	4.020	3.320	3.240
Calendar Year 1987												
Incremental Pricing Threshold	$2.538	$2.541	$2.544	$2.547	$2.555							
NGPA Section 102 Threshold	4.459	4.478	4.497	4.516	4.544							
NGPA Section 109 Threshold	2.617	2.620	2.623	2.626	2.634							
130% of No. 2 Fuel Oil in New York City Threshold	4.090	4.660	4.620	4.120	4.450							

[FR Doc. 87-9831 Filed 4-29-87; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 2

[Docket Nos. 85P-0265 and 85P-0289]

Chlorofluorocarbon Propellants in Self-Pressurized Containers; Amendment of Essential Uses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is adding to the list of products containing a chlorofluorocarbon for an essential use metered-dose ipratropium bromide for oral inhalation. This action responds to a citizen petition submitted by the manufacturer of this product, requesting that it be added to the list of uses considered essential and establishing that the product provides a unique health benefit unavailable without the use of a chlorofluorocarbon. A second petition, under Docket No. 85P-0289, has been voluntarily withdrawn and the proposed rule with respect to this product is being withdrawn.

EFFECTIVE DATE: April 30, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, Center for Drugs and Biologics (HFN-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8046.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 16, 1986 (51 FR 25708), the agency proposed to add metered-dose ipratropium bromide and metered-dose thiazinamium chloride to the list of products containing a chlorofluorocarbon for an essential use found in § 2.125(e) (21 CFR 2.125(e)).

Under § 2.125, any food, drug, device, or cosmetic in a self-pressurized container that contains a chlorofluorocarbon propellant is adulterated or misbranded, or both, under the Federal Food, Drug, and Cosmetic Act (the act), unless the use of a chlorofluorocarbon is essential. This prohibition is based on scientific research indicating that chlorofluorocarbons may reduce the amount of ozone in the stratosphere and thereby increase the amount of ultraviolet radiation reaching the earth. An increase in ultraviolet radiation may increase the incidence of skin cancer, change the climate, and produce other adverse effects of unknown magnitude on humans, animals, and plants.

Section 2.125(d) exempts from the adulteration and misbranding provisions of § 2.125(c) certain products containing chlorofluorocarbon propellants, which FDA determines provide a unique health benefit that would not be available without the use of a chlorofluorocarbon. These products are referred to in the regulation as essential uses of chlorofluorocarbon and are listed in § 2.125(e).

Under § 2.125(f), a person may petition the agency to request additions to the list of uses considered essential. To demonstrate that the use of a chlorofluorocarbon is essential, the petition must be supported by an adequate showing that: (1) There are no technically feasible alternatives to the use of a chlorofluorocarbon in the product; (2) the product provides a substantial health, environmental, or other public benefit unobtainable without the use of the chlorofluorocarbon; and (3) the use does not involve a significant release of chlorofluorocarbons into the atmosphere or, if it does, the release is warranted by the benefit conveyed.

II. Petitions Received by FDA

As discussed in the July 16, 1986, proposed rule, the agency received two petitions submitted under § 2.125(f) and Part 10 (21 CFR Part 10) requesting additions to the list of chlorofluorocarbon uses considered essential. These petitions remain on file and may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

One petition, submitted by Boehringer Ingelheim (Docket No. 85P-0265), requested that § 2.125(e) be amended to include metered-dose ipratropium bromide for oral inhalation as an essential use of chlorofluorocarbon. The petition contains a discussion supporting the position that there are no technically feasible alternatives to the use of chlorofluorocarbon in the product. It includes information showing that neither an alternative delivery system, such as the hand operated "pump," nor other substitute propellants, such as compressed or other gases, could provide as safe and uniform dispersal of the drug for effective inhalation therapy as do chlorofluorocarbon propellants. Also, the petition states that the product provides a substantial health benefit that would not be obtainable without the use of chlorofluorocarbon. In this regard, the petition contains information to support the use of this product as an anticholinergic bronchodilator. Further, the petition states that, unlike a

nebulizer, the vial and the mouthpiece for the product are portable and can be easily carried in a purse or a pocket. The petition asserts the metered-dose ipratropium bromide would not result in a significant release of chlorofluorocarbon propellants into the atmosphere because the total daily amount released per product is estimated to be approximately 0.56 gram. FDA agrees that the use of metered-dose ipratropium bromide provides a special benefit for asthmatic patients that would be unavailable without the use of chlorofluorocarbons, and has approved a new drug application for this product.

Interested persons were given 60 days to submit comments on the proposed rule. No comments were received. Therefore, the agency is granting the petition under Docket No. 85P-0265 by amending § 2.125(e) to include metered-dose ipratropium bromide for oral inhalation as an essential use of chlorofluorocarbon.

The second petition, submitted by Wyeth Laboratories (Docket No. 85P-0289), requested that § 2.125(e) be amended to include metered-dose thiazinamium chloride for oral inhalation. On March 6, 1987, the firm voluntarily withdrew their petition. The agency, therefore, is withdrawing its proposed rule to amend § 2.125(e) with respect to metered-dose thiazinamium chloride.

III. Environmental Impact

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

IV. Economic Impact

FDA has examined the economic impact of this rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis as defined in the Regulatory Flexibility Act (Pub. L. 96-354). Specifically, the final rule would add a drug product to the list of products containing a chlorofluorocarbon as essential uses, thereby permitting the manufacturing and marketing of this drug product. Therefore, the agency has determined that the final rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the final rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act.

List of Subjects in 21 CFR Part 2

Administrative practice and procedure, Cosmetics, Drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR Part 2 is amended as follows:

PART 2—GENERAL ADMINISTRATIVE RULINGS AND DECISIONS

Subpart G—Provisions Applicable to Specific Products Subject to the Federal Food, Drug, and Cosmetic Act

1. The authority citation for 21 CFR Part 2, Subpart G, continues to read as follows:

Authority: Secs. 301, 402, 409, 501, 502, 505, 507, 512, 601, 701, 52 Stat. 1042-1043 as amended, 1046-1047 as amended, 1049-1054 as amended, 1055-1056 as amended, 59 Stat. 463 as amended, 72 Stat. 1785-1788 as amended, 82 Stat. 343-351 (21 U.S.C. 331, 342, 348, 351, 352, 355, 357, 360b, 361, 371); 21 CFR 5.10.

2. In § 2.125 by adding new paragraph (e)(11) to read as follows:

§ 2.125 Use of chlorofluorocarbon propellants in self-pressurized containers.

* * * * *

(e) * * *

(11) Metered-dose ipratropium bromide for oral inhalation.

* * * * *

Dated: April 14, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-9733 Filed 4-29-87; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Tiamulin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Fermenta Animal Health Co., which provides for use of tiamulin in swine drinking water to treat swine pneumonia due to *Haemophilus pleuropneumoniae* susceptible to tiamulin.

EFFECTIVE DATE: April 30, 1987.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Center for Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Fermenta Animal Health Co., 7528 Auburn Rd., P.O. Box 8001, Painesville, OH 44077, filed a supplement to NADA 134-644 providing for use of tiamulin soluble powder to be added to swine drinking water to treat swine pneumonia due to *Haemophilus pleuropneumoniae* susceptible to tiamulin. The drug had been previously approved for use in swine drinking water to treat swine dysentery associated with *Treponema hyodysenteriae* susceptible to tiamulin.

The supplemental NADA is approved and 21 CFR 520.2455 is amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 520.2455 is revised to read as follows:

§ 520.2455 Tiamulin.

(a) *Specifications.* A water-soluble powder containing 45 percent tiamulin used to make a medicated drinking water containing 227 or 677 milligrams of tiamulin per gallon.

(b) *Sponsor.* See No. 054273 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.738 of this chapter.

(d) *Conditions of use in swine*—(1) Amount. 3.5 milligrams of tiamulin per pound of body weight for 5 days.

(i) *Indications for use.* For treatment of swine dysentery associated with *Treponema hyodysenteriae* susceptible to tiamulin.

(ii) *Limitations.* Use for 5 consecutive days. Withdraw 3 days before slaughter. Prepare fresh water daily. Not for use in swine over 250 pounds body weight. Use as only source of drinking water.

(2) *Amount.* 10.5 milligrams of tiamulin per pound of body weight for 5 days.

(i) *Indications for use.* For treatment of swine pneumonia due to *Haemophilus pleuropneumoniae* susceptible to tiamulin.

(ii) *Limitations.* Use for 5 consecutive days. Withdraw 7 days before slaughter. Prepare fresh water daily. Not for use in swine over 250 pounds body weight. Use as only source of drinking water. Do not allow consumption of feeds containing polyether ionophores (e.g., monensin, lasalocid, or salinomycin) as adverse reactions may occur.

Dated: April 24, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-9734 Filed 4-29-87; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 556 and 558

Animal Drugs, Feeds, and Related Products; Monensin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Elanco Products Co. The NADA provides for use of monensin in turkeys. The regulations are also amended to establish safe concentrations for monensin residues in edible turkey tissues.

EFFECTIVE DATE: April 30, 1987.

FOR FURTHER INFORMATION CONTACT: Adriano Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Elanco Products Co., A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed NADA 130-736 for monensin in turkeys. The drug is used for the prevention of coccidiosis caused by *Eimeria adenoeides, E. meleagrimitis,* and *E. gallopavonis.* The application is approved and 21 CFR 556.420(b) is amended to establish the safe concentrations for monensin residues in edible turkey tissues. In addition, 21 CFR 558.355 (b)(4) and (f)(2) is amended to reflect approval of the application. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

List of Subjects

21 CFR Part 556

Animal drugs, Foods.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR Part 556 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. In § 556.420 by revising paragraph (b) to read as follows:

§ 556.420 Monensin.

* * * * *

(b) *Chickens and turkeys.* A tolerance for marker residue of monensin in chickens and turkeys is not needed. The safe concentrations for total residues of monensin in chickens and turkeys are 1.5 parts per million in muscle, 3.0 parts per million in skin with adhering fat, and 4.5 parts per million in liver. "Tolerance" in this paragraph refers to the concentration of a marker residue in the target tissue selected to monitor for total residues of the drug in the target animals. "Safe concentrations" refers to the concentration of total residues considered safe in edible tissues.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

4. In § 558.355 by adding new paragraphs (b)(4) and (f)(2) to read as follows:

§ 558.355 Monensin.

* * * * *

(b) * * *

(4) To 000986: 45 grams per pound, as monensin sodium, paragraph (f)(2) of this section.

* * * * *

(f) * * *

(2) *Turkeys*—(i) *Amount per ton.* Monensin, 54 to 90 grams.

(ii) *Indications for use.* For the prevention of coccidiosis in turkeys caused by *E. adenoeides, E. meleagrimitis,* and *E. gallopavonis.*

(iii) *Limitations.* Feed continuously as the sole ration from 1 day of age to 10 weeks of age; as monensin sodium; do not allow horses, other equines, mature turkeys, or guinea fowl access to feed containing monensin.

* * * * *

Dated: April 24, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-9735 Filed 4-29-87; 8:45 am]

BILLING CODE 4160-01-M

PEACE CORPS

22 CFR Part 309

Collection of Claims by Administrative Offset

ACTION: Final rule.

SUMMARY: This action establishes internal policy and procedures to meet the requirements of the Debt Collection Act of 1982. It provides for use of administrative offset for the collection of monies or property owed the Agency in every instance in which collection is feasible and not prohibited by law.

EFFECTIVE DATE: June 1, 1987.

FOR FURTHER INFORMATION CONTACT: George Northway, Acting Director, Office of Financial Management, 202-254-7960.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Peace Corps has determined that this rule is not a major rule because it is not likely to result in an annual effect on the economy of $100 million or more.

Paperwork Reduction Act

This rule imposes no obligatory information on the public.

Regulatory Flexibility Act of 1980

The Director certifies that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 22 CFR Part 309

Credit, Debts.

On December 11, 1986, the Director of the Peace Corps issued a notice in the **Federal Register**, Volume 51 at pages 44639 through 44643 that the Peace Corps proposed to amend the Code of Federal Regulations by adding a new part 309 which implements the requirements set forth in the Debt Collection Act of 1982. No comments were received during the sixty day comment period.

Accordingly, title 22, Code of Federal Regulations, is amended by adding Part 309 to read as follows:

PART 309—COLLECTION OF CLAIMS BY ADMINISTRATIVE OFFSET

Sec.

309.1 Purpose.
309.2 Policy
309.3 Definitions.
309.4 Feasibility of offset.
309.5 Required notification.
309.6 Exceptions to collection by offset.
309.7 Administrative review.
309.8 Hearing.
309.9 Administrative offset procedures.
309.10 Procedures for requesting offset by another agency.
309.11 Procedures for processing requests for offset from another agency.
309.12 Accounting for monies collected by either Peace Corps or another creditor agency.

Authority: 31 U.S.C. 3701-3719; Pub. L. 97-365, 96 Stat. 1749.

§ 309.1 Purpose.

This part sets forth the policy and procedures for collecting claims of the Peace Corps and other U.S. Government Agencies by administrative offset. This regulation meets the requirements of the Debt Collection Act of 1982 Pub. L. 97-365, 96 Stat. 1749, as amended by Pub. L. 98-167, 97 Stat 1104 and is consistent with the Federal Claims Collections Standards issued jointly by the Department of Justice and the General Accounting Office.

§ 309.2 Policy.

The policy of the Peace Corps is to use administrative offset for the collection of monies or property owed the Agency in every instance in which such collection is deemed feasible and not otherwise prohibited. Whether collection by administrative offset is feasible will be determined on a case-by-case basis. The Peace Corps, in making the determination, will consider not only whether administrative offset can be accomplished practically and legally, but whether it is best suited to further and protect all of the government's interests. In appropriate circumstances, the Peace Corps will consider the debtor's financial condition. It is not required to use offset in every case in which there is an available source of funds. The Peace Corps will also consider whether offset would tend to substantially interfere with or defeat the purposes of the legislation authorizing the payments against which offset is contemplated.

§ 309.3 Definitions.

(a) "Administrative offset" means withholding money payable by the United States Government to a person to satisfy a debt the person owes the Government.

(b) "Billing office" means a Peace Corps organizational unit which performs the issuance, control, follow-up, and settlement of billings for claims or debts.

(c) "Claim" means an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization, or entity, except another Federal agency.

(d) "Creditor agency" means the agency to which a debt is owed.

(e) "Debt" means a claim which has not been paid by the date specified in the agency's initial written notification or applicable contract agreement.

(f) "Disposable pay" means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or other authorized pay remaining after the deduction of any amount required by law to be withheld.

(g) "Paying agency" means the agency employing an individual and authorizing the payment of his or her current pay.

(h) "Payrolling office" means an office that prepares and processes payroll transactions and authorizes and requests the issuance of payroll checks.

§ 309.4 Feasibility of offset.

The billing office will determine the feasibility of collection by administrative offset on a case-by-case basis for each claim established. Billing officials will consider the following issues in making a determination to collect a claim by administrative offset:

(a) Can administrative offset be accomplished?

(b) Is administrative offset practical and legal?

(c) Does administrative offset best serve and protect the interest of the U.S. Government?

(d) Is administrative offset appropriate given the debtor's financial condition?

§ 309.5 Required notification.

(a) Whenever possible, the billing office will seek written consent from the debtor to initiate immediate collection before starting the formal notification process.

(b) In cases where written agreement for collection cannot be obtained from the debtor, the formal notification process will be followed. Prior to collecting a claim by administrative offset, the billing office will provide the debtor with a written notice by certified or registered mail with return receipt requested. This notice will include:

(1) The nature and amount of the debt,

(2) The Agency's intention to collect the debt by administrative offset on or

after a specified date not less than 30 days after the date of delivery of the notice,

(3) Applicable charges for interest, penalties, and administrative costs associated with the collection action,

(4) The right of the debtor to receive a copy of the record pertaining to the debt,

(5) The right of the debtor to request a review of the determination of indebtedness and, in the circumstances specified in § 309.7 below, to request an oral hearing from the billing office,

(6) The right of the debtor to enter into a written agreement with the Agency to repay the debt in some other way, and

(7) The right of the debtor to request waiver of collection of a claim for erroneous overpayment of pay or allowances.

(c) Claims for payment of travel advances and employee training expenses require 30 days notification prior to administrative offset as described in § 309.5(b). Because no oral hearing is required, notice of the right to a hearing need not be included in the notification.

(d) Administrative offset may be effected prior to completing the above actions in those cases where:

(1) Failure to take the offset would jeopardize the Agency's ability to collect the debt, and

(2) The time before the payment is to be made does not reasonably permit the completion of those actions.

(e) Such prior offset must be immediately followed by the completion of those actions required.

(f) Amounts recovered by offset but later found not to be owed the U.S. Government will be promptly refunded.

§ 309.6 Exceptions to collection by offset.

Administrative offset under this Part may not be initiated against:

(a) Debts owed by any State or local Government.

(b) Debts where more than 10 years have elapsed since the Government's right to collect first accrued, unless facts material to the Government's rights to collect were not known and could not reasonably have been known by responsible officials.

(c) Claims with respect to which another statute specifically provides for or prohibits the use of administrative offset to collect the type of claim involved.

§ 309.7 Administrative review.

(a) Before initiating offset against a Peace Corps employee's salary, the Peace Corps shall attempt the collection procedure specified in 4 CFR Parts 101 through 104. If the debtor does not respond to the written notification of intended offset described in § 309.5 by the proposed effective date, the billing office will initiate offset. Collection by offset from individuals receiving pay or compensation will be made over a period not greater than the period during which such pay or compensation is to be received.

(b) If the debtor requests a repayment agreement in place of offset, the billing office has discretion and should use sound judgment to determine whether to accept a repayment agreement in place of offset. If the debt is delinquent and the debtor has not disputed its existence or amount, the billing office should not accept a repayment agreement in place of offset unless the debtor is able to establish that offset would cause undue financial hardship or be unjust.

(c) If the debtor disputes a debt, the billing office will provide a copy of the record and advise the debtor to furnish available evidence to support his or her position. Upon receipt of the evidence, the billing office will review the written record of the indebtedness and inform the debtor of its findings.

§ 309.8 Hearing.

A debtor will be provided a reasonable opportunity for an oral hearing when:

(a) (1) By statute consideration must be given to a request to waive the indebtedness;

(2) The debtor requests waiver of the indebtedness; and

(3) The waiver determination rests on an issue of credibility or veracity; or

(b) The debtor requests reconsideration and the Peace Corps determines that the question of indebtedness cannot be resolved by reviewing the documentary evidence.

In cases where an oral hearing is provided to the debtor, the billing office will conduct the hearing, and provide the debtor with a written decision.

§ 309.9 Administrative offset procedures.

(a) *Travel advance.* The billing office will deduct outstanding advances provided to Peace Corps travelers from other amounts owed the traveler by the agency whenever such a case exists. Monies owed by an employee or other person for outstanding travel advances which cannot be deducted from other travel amounts due that individual will be collected through salary offset whenever possible, subject to the advance notice requirements described in § 309.5.

(b) *Salary.* The billing office will instruct the proper payrolling office in writing to deduct an amount not to exceed fifteen (15) percent of the disposable pay of an employee for an official pay period. Normally, debts should be collected in one lump-sum payment. However, if the employee is financially unable to pay in one lump-sum or the amount of the debt exceeds fifteen percent of the disposable pay for a pay period, offset will be made in installments according to the size of the debt and over a period not greater than the anticipated tour of duty or employment (unless the employee has agreed in writing to the deduction of a greater amount). The payrolling office will be requested to execute the offset effective the next possible pay period. In cases where more than one payroll deduction is to occur, the payrolling office will continue offset each pay period until the full amount of offset is achieved. As soon as the payrolling office has verified the total offset, they will forward written confirmation to the billing office to ensure that the proper fiscal coding to credit the debt by offset is entered into the accounting system.

(c) *Final check.* The billing office will inform the payrolling office of any outstanding debts owed by an employee terminating duty. The payrolling office will be requested to make arrangements to offset the amount owed to the U.S. Government from subsequent payments of any nature due the employee, such as final salary payment, lump-sum leave, etc. The same offset action will take place to recover amounts of indebtedness from employees who have separated from the Agency but have not yet been issued final check payment.

(d) *Volunteer allowance.* The Volunteer Support Services staff of the Accounting Division, M/FM will deduct, through administrative offset, amounts owed the U.S. Government by Volunteers and Trainees from the readjustment allowance account whenever possible.

(1) Overseas posts will obtain written consent from Volunteers or Trainees who are indebted to the Agency upon close of service or termination, to deduct amounts owed from their readjustment allowance. Posts will immediately submit the written consent to the Volunteer Support Services staff to initiate offset.

(2) In cases where prior written consent from indebted Volunteers or Trainees cannot be obtained in advance of their departure, overseas posts will immediately report the documented debts to the Volunteer Support Services staff. The Volunteer Support Services staff may then initiate offset against the readjustment allowance. Prior to offset action, the Volunteer Support Services staff will notify the indebted Volunteers

or Trainees and inform them of their rights as required in § 309.5.

Volunteer and Trainee debt collection data will be entered into the Agency accounting system by the Volunteer Support Services staff.

(e) *Contract.* The contracting official will make an appropriate offset against a contract payment to a contractor who is indebted to the Agency and from whom contractor invoices have been received. The offset action, explanation, and follow-up will be performed in accordance with Subpart 32.6 on "Contract Debts" of the Federal Acquisition Regulation.

(f) *Civil or Foreign Service Retirement.* The billing office may request the Director of the Accounting Division, M/FM to approve a request for collection by offset against the Civil Service Retirement and Disability Fund, the Foreign Service Retirement Fund, or any other Federal Retirement fund in installments determined to be reasonable using the standards specified in § 309.9 (b) and (c). Requests approved by the Director of Accounting will be submitted to the U.S. Office of Personnel Management (OPM) or the U.S. Department of State. The requests for administrative offset will certify in writing the following:

(1) The debtor owes the United States a debt and the amount of the debt;

(2) The Peace Corps has complied with applicable regulations and procedures;

(3) Peace Corps has followed the requirements of the Standards for collection by administrative offset as described in this Part 309.

Requests to the Office of Personnel Management or Department of State should be made as soon as possible to enable those Agencies to identify and "flag" the debtor's account in anticipation of the debtor's eligibility or request received payments from the Retirement funds. If a year elapsed since the original offset request was made, the debtor is permitted to offer a satisfactory repayment plan in place of offset upon establishing difficult circumstances. In cases where the billing office received payment for part or all of the debt by other means before deductions from the retirement fund occur, the billing office will immediately notify the Office of Personnel Management, Department of State or other pension fund to modify or terminate the request for offset.

§ 309.10 Procedures for requesting offset by another agency.

The following procedures will be used when a separated employee now employed by another federal agency owes a debt for which no provision for collection has been made.

(a) The billing office will complete and certify a debt claim to request collection by salary offset. The certification will provide the following information to the employee's paying agency:

(1) The amount and basis of the debt owed by the separated employee, the date on which payment is due, the date Peace Corps' right to collect the debt first accrued (the date the debt actually accrued), and that the Peace Corps' regulations on collection by salary offset have been approved by the Office of Personnel Management.

(2) Using the standard specified in § 309.9, the number and amount of installments to be collected if the collection must be made in installments. If FCA a starting date of the first installment must be other than the next officially established pay period, the required effective date must be provided.

(3) The date and actions previously taken to collect the debt unless the separated employee has agreed to the salary offset in writing or signed a statement acknowledging receipt of the required procedures. The writing or statement must be attached to the debt claim form sent to the paying agency.

(b) Hearings (see § 309.8) may consist of informal conferences before a hearing official in which the separated employee and the appropriate Peace Corps official will be given full opportunity to present evidence, witnesses, and argument. The separated employee may represent him or herself or be represented by an individual of his or her choice. Peace Corps will provide for a summary record of the hearing.

(c) In cases where a separated employee transfers from one paying agency to another before the debt is collected in full, notification will be made to the Peace Corps billing office by the paying agency from which the employee separates. It is the responsibility of the Peace Corps billing office to review the status of the debt to ensure collection is resumed by the new paying agency.

§ 309.11 Procedures for processing requests for offset from another agency.

The following procedures will be used when Peace Corps receives a request from a creditor agency to collect by offset a debt owed the creditor agency by a current employee.

(a) The Accounting Division, M/FM, will review the completed debt claim form submitted by the creditor agency.

(1) If the claim form is incomplete, the Accounting Division will return the request with a notice that the required information as listed in § 309.10 is incomplete and a completed debt claim form must be furnished before collection action can be taken.

(2) If the claim form is completed and required information supplied, deductions will be scheduled effective the next possible pay period. The Payroll Office must give a copy of the debt claim form, to the debtor, along with a notice of the date deductions have been requested to begin if different from the date stated on the debt claim form.

(b) The Accounting Division is not required or authorized to review the merits of the creditor agency's determination concerning the amount or validity of the debt as indicated on the debt claim form.

(c) If an employee transfers to another paying agency before the debt is collected in full, the Peace Corps Payroll Office must certify the total collection made on the debt. One copy of the certification will be mailed or delivered to the employee, and another copy furnished to the creditor agency along with notice of the employee's transfer. The original of the debt claim form along with a copy of the certification of the total amount which has been collected, will be forwarded to the Personnel Office for inclusion in the employee's official personnel folder.

(d) If the employee separates from the Federal Service before the debt is collected in full, the certification form indicating total collection made on the debt, accompanied by the original debt claim form and notice of separation will be returned to the creditor agency.

(e) When a debt is collected in full, the Peace Corps Payroll Office will certify the total collection made and send a copy to both the creditor agency and the employee.

§ 309.12 Accounting for monies collected by either Peace Corps or another creditor agency.

The billing office of the paying agency will complete a Standard Form 1081, "Voucher and Schedule of Withdrawals and Credits", or similar form, to credit the appropriation of the creditor agency when monies are collected. A copy of the form will be sent to the creditor agency for each collection made.

Dated: April 21, 1987.

Loret Miller Ruppe,

Director.

[FR Doc. 87-9756 Filed 4-29-87; 8:45 am]

BILLING CODE 6051-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 118

Judgment Funds, Shoshone Tribe of the Wind River Reservation, WY

March 13, 1987.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule; removal.

SUMMARY: The judgment funds for the Shoshone Tribe of the Wind River Reservation, Wyoming have been depleted through payment to tribal members. Since there are no funds left to be distributed, there is no further need for this rule. Part 118 is removed in its entirety. This removal will not have an adverse effect on any ongoing program.

EFFECTIVE DATE: The effective date of removal is June 1, 1987.

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

The Act of June 25, 1938, provided for an appropriation for payment of judgment funds to members of the Shoshone Tribe of the Wind River Reservation in Wyoming who were living on July 27, 1939. A roll prepared listing these members was the basis for the distribution of the judgment fund. Bureau of Indian Affairs' records indicate that the judgment funds for the Shoshone Tribe of the Wind River Reservation in Wyoming have been depleted. Since there are no funds left to distribute, removal of this part is necessary because Part 118 has become obsolete. There will be no effect on the public.

In order to provide the public an opportunity to comment on the removal of 25 CFR Part 118, the rule was published as a proposed rule removal on December 5, 1986 at 51 FR 43935. No comments were received.

This rule does not constitute a major federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.

This rule did contain information collections which required the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* However, the requirements need not be submitted due to the removal of ths rule.

List of Subjects in 25 CFR Part 118

Indians—claims, Indians—judgment funds.

PART 118—[REMOVED]

Accordingly, for the reasons set out above, Part 118, Chapter I of Title 25 of the Code of Federal Regulations is hereby removed.

Nancy C. Garrett,

Acting Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 87-9717 Filed 4-29-87; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

[Docket No. H-33D]

Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Extension of partial stay and amendment of final rule.

SUMMARY: OSHA is hereby extending the partial administrative stay of the revised final standards for occupational exposure to asbestos, tremolite, anthophyllite and actinolite for general industry (§ 1910.1001) and construction (§ 1926.58), insofar as they apply to occupational exposure to non-asbestiform tremolite, anthophyllite and actinolite. The current partial stay which expired on April 21, 1987, is being extended until July 21, 1988 to allow OSHA to conduct 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.

OSHA is also making minor conforming amendments to notes to the affected standards.

DATES: Effective April 21, 1987. The partial stay of §§ 1910.1001 and 1926.58 will expire on July 21, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Director, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N3647, 200 Constitution Avenue NW., Washington, DC 20210. Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: In June 1986, OSHA issued revised standards governing occupational exposure to asbestos, tremolite, anthophyllite and actinolite for general industry and construction which were to be effective on July 21, 1986. (See 51 FR 22612 *et seq.* June 20, 1986).

On October 17, 1986 OSHA issued a partial stay of the revised standards insofar as they apply to occupational exposure to non-asbestiform tremolite, anthophyllite and actinolite, in order to enable the Agency to review new submissions raising questions about the appropriateness of regulating these minerals in the revised asbestos standards, and to allow sufficient time to reopen the rulemaking record and conduct supplemental rulemaking proceedings limited to this issue (51 FR 37002).

OSHA is now beginning to draft a notice of proposed rulemaking and is collecting data relating to the issue of whether and how to regulate these non-asbestiform minerals including the feasibility of regulating all impacted industries. The length of the initial partial stay has proven inadequate for the Agency to complete the rulemaking procedures contemplated in the notice which announced the partial stay because of the variety of the impacted industries and the unavailability of both minerologic and exposure data concerning many of these industries. OSHA therefore is extending the partial stay for 15 months, until July 21, 1988. The Agency believes that this extension more realistically and adequately reflects the amount of time which the data collection, analysis and drafting of an appropriate notice will take.

As was the case with the initial partial stay, OSHA intends that during the period of the extension, the 1972 standard governing occupational exposure to asbestos (redesignated 29 CFR 1910.1101) will remain in effect to the extent of the stay.

The full text of the stay with respect to these non-asbestiform minerals was published in the October 17, 1986 **Federal Register** (51 FR 37002).

This document also makes conforming amendments to the text of notes to the affected standards which refer to the partial stay.

With respect to the extension of the stay, 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 the limited duration of the extension and the continued applicability of the 1972

standard to cover the gaps in coverage created by the partial stay.

The minor amendments to the notes are similarly made without advance notice and opportunity for comment. OSHA finds such process unnecessary and impracticable in that the changes merely incorporate references to the extension and restate applicability of the stay and of the 1972 standard.

No evidenciary issues are involved.

List of Subjects

29 CFR Part 1910

Asbestos, Occupational safety and health.

29 CFR Part 1926

Asbestos, Occupational safety and health.

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 Longshore 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, DC, this 23rd day of April, 1987.

John A. Pendergrass,

Assistant Secretary for Occupational Safety and Health.

Amended Standards

PART 1910—[AMENDED]

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

Subpart Z—[Amended]

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

Authority: Secs. 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]

2. Section 1910.1001 is hereby amended by revising the note after Appendix H to § 1910.1001 to read as follows:

Note—Pursuant to an administrative stay effective July 21, 1986, published on October 17, 1986, (51 FR 37002) and extended to July 21, 1988 (at 52 FR 15722, Apr. 30, 1987) enforcement of this section is stayed as it applies to non-asbestiform tremolite, anthopyllite and actinolite. During the period and to the extent of this stay, the 1972 standard governing occupational exposure to asbestos (redesignated as 29 CFR 1910.1101) will remain in effect.

3. Section 1910.1101 is hereby amended by revising the note preceding § 1910.1101(a) to read as follows:

§ 1910.1101 Asbestos.

Note—This section applies in lieu of the revised standards governing occupational exposure to asbestos, tremolite, anthophyllite, and actinolite (29 CFR 1910.1001; 29 CFR 1926.58), during the period and to the extent that the revised standards have been partially stayed. (See 51 FR 37002, Oct. 17, 1986 and 52 FR 15722, Apr. 30, 1987, 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).

* * * * *

PART 1926—[AMENDED]

Part 1926 of the Code of Federal Regulations is hereby amended as follows:

Subpart D—[Amended]

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

Authority: Secs. 4, 6, and 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.

§ 1926.58 [Amended]

5. Section 1926.58 is hereby amended by revising the note after Appendix I to § 1926.58 to read as follows:

Note—Pursuant to an administrative stay effective July 21, 1986, published October 17, 1986 (51 FR 37002), and extended to July 21, 1988 (at 52 FR 15722, Apr. 30, 1987) enforcement of this section is stayed as it applies to non-asbestiform tremolite, anthopyllite and actinolite. During the period and to the extent of this stay, the 1972 standard governing occupational exposure to asbestos (redesignated as 29 CFR 1910.1101) will remain in effect.

* * * * *

[FR Doc. 87–9637 Filed 4–29–87; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Wilmington, NC Regulation 87–02]

Safety Zone Regulations; Cape Fear River From Military Ocean Terminal, Sunny Point, NC to State Ports Authority, Wilmington, NC

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone which encompasses a water area 100 yards around the SS PFC Eugene A. Obregon during a port call to Wilmington, North Carolina. This zone is needed to safeguard the vessel and public from any accidents during Military Preposition Ship (MPS) operations. Entry into this zone by other than assist tugs is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on May 10, 1987. It terminates on May 15, 1987, or when the SS PFC Eugene A. Obregon departs the Port of Wilmington, NC, whichever first occurs.

FOR FURTHER INFORMATION CONTACT: LTJG A. D. Wiest, Assistant Chief, Operations Department, U.S. Coast Guard Marine Safety Office, Suite 500, 272 N. Front Street, Wilmington, North

Carolina 28401–3907. Phone: 919 343–4892.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would have been contrary to the public interest since immediate action is needed to prevent possible injury or loss of life, and damage to the vessel's equipment during this operation.

Drafting Information

The drafters of this regulation are Lieutenant (Junior Grade) A. D. Wiest, project officer, for the Captain of the Port, and Commander R. J. Reining, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Regulations

The hazard requiring this regulation is associated with the military cargo on board and scheduled to be loaded on board the SS PFC Eugene A. Obregon on or about May 10, 1987. This regulation is intended to protect the vessel from any accident while it is underway or moored and loading cargo, and to protect the public from the consequences of such an accident, should it occur. A moving safety zone will encompass the water area 100 yards around the SS PFC Eugene A. Obregon while it transits from the Military Ocean Terminal, Sunny Point, North Carolina (MOTSU) to the State Ports Authority at Wilmington, North Carolina, and while the SS PFC Eugene A. Obregon is transiting from the State Ports Authority to MOTSU. A stationary safety zone will surround the SS PFC Eugene A. Obregon while it is moored at State Ports Authority. The stationary safety zone encompasses the water area 100 yards around the vessel. This regulation is issued under 33 U.S.C. 1225 and 1231, as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

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

Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. A new section, 33 CFR 165.T5014 is added to read as follows:

§ 165.T5014 Safety Zone: Cape Fear River between Military Ocean Terminal, Sunny Point, North Carolina and State Ports Authority, Wilmington, North Carolina.

(a) *Location:* The following areas are safety zones:

(1) The waters within 100 yards of the SS PFC Eugene A. Obregon while it transits the Cape Fear River from Military Ocean Terminal, Sunny Point, North Carolina to the State Ports Authority at Wilmington, North Carolina.

(2) The waters within 100 yards of the SS PFC Eugene A. Obregon while the vessel is moored at the State Ports Authority, Wilmington, NC.

(3) The waters within 100 yards of the SS PFC Eugene A. Obregon while it transits the Cape Fear River from the State Ports Authority to Military Ocean Terminal, Sunny Point, North Carolina.

(b) *Effective dates:* This regulation becomes effective on May 10, 1987. It terminates on May 15, 1987, or when the SS PFC Eugene A. Obregon departs the Port of Wilmington, North Carolina, whichever first occurs.

(c) *Regulations:* In accordance with the general regulations in 165.23 of this part, entry into this zone by other than assist tugs is prohibited unless authorized by the Captain of the Port or any Coast Guard commissioned or petty officer designated by the Captain of the Port.

Dated: April 23, 1987.

D. L. McCord,

Commander, U.S. Coast Guard, Captain of the Port, Wilmington, NC.

[FR Doc. 87–9776 Filed 4–29–87; 8:45 am]

BILLING CODE 4910–14–M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket Nos. RM87–2 and MC86–3; Order No. 753]

Domestic Mail Classification Schedule: Change in Service, 1986, Collect on Delivery Service; Amendment

Issued April 13, 1987.

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: In accordance with the April 6, 1987, adoption of the Postal Rate Commission's recommended Docket No. MC86–3 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 procedures by which addresses may pay Collect on Delivery (C.O.D.) charges.

EFFECTIVE DATE: June 7, 1987.

ADDRESSES: 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).

SUPPLEMENTARY INFORMATION: On April 6, 1987, the Governors of the Postal Service approved a decision (Docket No. MC86–3) of the Commission recommending a change in section 6.021 of the Domestic Mail Classification Schedule. Section 6.021 describes the Postal Service's guarantees to the users of Collection on Delivery (C.O.D.) service. The Postal Service had requested an advisory opinion (Docket No. N86–1) on a change to permit the addressees to pay for C.O.D. shipments with a check rather than requiring that a money order be purchased. The purpose of the change is to discourage use of C.O.D. in fraudulent schemes in which addressees are sent parcels worth far less than the amount charged. If addressees pay with a check rather than purchasing a money order, they have a self-help remedy available.

The change to the DMCS makes clear that the Postal Service undertakes only to insure that the C.O.D. shipper receives the check from addressees if they choose to pay by that method, rather than that the C.O.D. shipper receive the amount of money charged. The Commission raised the issue of a conforming change to the DMCS early in the Docket No. N86–1 proceeding. When the Postal Service filed Docket No. N86–1, the Commission invited interested persons to comment and participate. 51 FR 6842 (February 26, 1986). When the Commission decided that a conforming change to the DMCS should also be considered, it initiated Docket No. MC86–3 under 39 U.S.C. 3623(b), and invited comment and participation. 51 FR 25622–23 (July 15, 1986). This proceeding was separate, but parallel. Owing to the connection between the proceedings, the Commission noted in initiating Docket No. MC86–3 that the same factual record could be used for

both. Hearings were held on August 5, 1986 and October 8, 1986. The Commission received briefs and reply briefs.

The amendment to the DMCS which is published in this order reflects the Governors' April 6, 1987, 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

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

Authority: 39 U.S.C. 3603 3622, 3623, 84 Stat. 759–761; (5 U.S.C. 553), 80 Stat. 383, unless otherwise noted.

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:

§§ 3001.61—3001.67 [Amended]

Amend 6.021 by adding a second sentence to read as follows:

"This provision insures only the receipt of the instrument issued to the mailer after payment of C.O.D. charges, and is not to be construed to make the Postal Service liable upon any such instrument other than a Postal Service money order."

Charles L. Clapp,

Secretary

[FR Doc. 87-9841 Filed 4-29-87; 8:45 am]

BILLING CODE 7715-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 73

Oversight of Radio and TV Broadcast Rules; Correction

AGENCY: Federal Communications Commission.

ACTION: Final Rule; Correction.

SUMMARY: On April 2, 1987, the Commission published an Order regarding the Oversight of the Radio and TV Broadcast Rules (52 FR 10568). There were errors in that document and they are corrected here.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Mass Media Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

Erratum

In the above captioned *Order* released March 12, 1987, and published in the **Federal Register** on April 2, 1987 at 52 FR 10570, the regulatory text following amendatory instructions 2 and 5 and the text of amendatory instruction 11 were incorrectly stated and are corrected as follows:

PART 2—[AMENDED]

1. Section 2.983 is amended by correctly revising paragraph (j) to read as follows:

§ 2.983 Application for type acceptance.

* * * * *

(j) An application for type acceptance of an AM broadcast stereophonic exciter-generator intended for interfacing with existing type-accepted or notified transmitters must include measurements made on a complete stereophonic transmitter. The instruction book required under paragraph (d)(8) of this section must include complete specifications and circuit requirements for interconnecting with existing transmitters. The instruction book must also provide a full description of the equipment and measurement procedures to monitor modulation and to verify that the combination of stereo exciter-generator and transmitter meet the emission limitations of § 73.44.

PART 73—[AMENDED]

2. Section 73.182 is amended by correctly revising paragraph (a) introductory text to read as follows:

§ 73.182 Engineering standards of allocation.

(a) Sections 73.21 to 73.37 inclusive, govern allocation of facilities in the AM broadcast band of 535 to 1605 kHz. Section 73.21 establishes three classes of channels in this band, namely, clear channels for the use of high-powered stations, regional channels for the use of medium-powered stations, and local channels for the use of low-powered stations. The classes and power of AM broadcast stations which will be assigned to the various channels are set forth in § 73.21. The classifications of the AM broadcast stations are as follows:

* * * * *

3. Amendatory instruction (11) of the Order's Rules Appendix erroneously amended § 73.1690, paragraph (e)(6)(i). This paragraph had previously been deleted in the Report and Order in Mass Media Docket 86-264. 51 FR 41629, November 18, 1986. Section 73.1690 is correctly amended by revising paragraph (e) to read as follows:

§ 73.1690 Modification of transmission systems.

* * * * *

(e) Any electrical and mechanical modification to authorized transmitting equipment that is not otherwise restricted by the preceding provisions of this section, may be made without FCC notification or authorization. Equipment performance measurements must be made within ten days after completing the modifications (See § 73.1590). An informal statement, diagram, etc., describing the modification must be retained at the transmitter site for as long as the equipment is in use.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

[FR Doc. 87-9413 Filed 4-29-87; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[Ex Parte No. 346 (Sub-No. 22)]

Short Notice Effectiveness for Independently Filed Rail Carrier Rates

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission adopts final rules removing the provision at 49 CFR 1312.17(e), which provides that rates cancelled in the erroneous belief they are obsolete may be republished on five days' notice. This provision was rendered moot by a rule change adopted in this proceeding reducing the notice period required for independently filed new and reduced rail carrier rates to one day. The Commission also adopts the proposed amendment to 49 CFR 1312.39(h)(6) addressing mixed tariff filings on both 20 days' and one day's notice.

DATES: The rules will become effective June 1, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area).

This action will not significantly affect either the quality of the human environment or energy conservation.

The Commission certifies that the final rules will not have a significant economic impact on a substantial number of small entities, because they merely eliminate a rule rendered moot by a final rule adopted in this proceeding and clarify another rule.

List of Subjects in 49 CFR Part 1312

Railroads, Freight tariffs.

Dated: April 21, 1987.

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

Noreta R. McGee,

Secretary.

Appendix

Chapter X of Title 49 of the Code of Federal Regulations is amended as follows:

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS, SCHEDULES AND RELATED DOCUMENTS

1. The authority citation for 49 CFR Part 1312 continues to read as follows:

Authority: 49 U.S.C. 10762; 5 U.S.C. 553.

§ 1312.17 [Amended]

2. The second sentence in 49 CFR 1312.17(e), "Rates cancelled on the erroneous belief they were obsolete may be republished on 5 days' notice" is removed.

3. The text of § 1312.39(h)(6) is revised to read as follows:

§ 1312.39 Miscellaneous provisions which may be filed on less than statutory notice.

* * * * *

(h) * * *

(6) *Mixed filings.* Tariffs or amendments that contain new or reduced rates in addition to rate increases shall be filed with the notice applicable for rate increases, with the new and reduced rate filings appropriately symbolized and excepted from the notice applicable for rate increases.

* * * * *

[FR Doc. 87–9760 Filed 4–29–87; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 70101–7001]

Pacific Coast Groundfish Fishery; Restriction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of fishing restriction and request for comments.

SUMMARY: NOAA issues this notice (1) modifying the amount of sablefish smaller than 22 inches that may be landed by the fixed gear fishery, and (2) changing the difinition of "week" for the widow and *Sebastes* complex rockfish fisheries, off the coasts of Washington, Oregon, and California, and seeks public comment on these actions. These actions are authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan and change the provisions setting the fixed gear trip limit and defining a week which were effective January 1, 1987. These actions are necessary because fishing operations have been unduly burdened by these provisions. The intended effect is to be responsive to socioeconomic concerns of the fishing industry while still reducing the likelihood of biological stress on sablefish, widow rockfish, and the *Sebastes* complex of rockfishes.

DATES: The change to the fixed gear trip limit is effective at 0001 hours local time April 27, 1987, and the change in definition of fishing week is effective at 0001 hours local time May 3, 1987, until modified, superseded, or rescinded. Comments will be accepted through May 15, 1987.

ADDRESSES: Send comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206–526–6150, or E. Charles Fullerton, 213–514–6196.

SUPPLEMENTARY INFORMATION: The regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP) at 50 CFR 663.22 and 663.23 provide for inseason adjustments of fishing levels by notice published in the **Federal Register**. This action changes those provisions effective January 1, 1987 (52 FR 790, January 9, 1987) which set the trip limit at 100 pounds for sablefish smaller than 22 inches (total length) caught with fixed gear, and which defined a Sunday to Saturday fishing week in the widow rockfish and *Sebastes* complex fisheries. The Pacific Fishery Management Council (Council) reviewed these provisions at its April 7–10, 1987 meeting in Seattle, Washington, and recommended the following changes.

Fixed Gear Trip Limit for Sablefish

Council recommendation

The Council recommended that the trip limit for sablefish smaller than 22 inches (total length) caught fixed gear should be increased from 100 pounds to 1,500 pounds (round weights) coastwide.

Rationale

A 5,000-pound trip limit on sablefish smaller than 22 inches (total length) had been imposed for all gears north of Point Conception, California from 1983 through 1986 to reduce the likelihood of biological stress which was expected if landings of juvenile fish were not curtailed. At its November 19–20, 1986 meeting, the Council heard extensive testimony by its advisory bodies as well as industry representatives supporting sablefish trip limits in 1987. Many fixed gear representatives attending the November 1986 meeting requested a reduction of the 5,000-pound trip limit for fixed gear because they normally keep primarily larger fish that are worth more and because they felt that many small sablefish released from fixed gear would survive. These fixed gear representatives did not expect a reduced trip limit to seriously restrict their operations, and in fact initially offered to land *no* sablefish smaller than 22 inches. However, the Council felt a small incidental catch allowance of 100 pounds was needed to avoid enforcement actions when the occasional undersized sablefish was retained, and to prevent restricting the small dory fishery off southern California. Accordingly, the Council recommended that the trip limit on sablefish smaller than 22 inches be reduced to 100 pounds coastwide for fixed-gear vessels.

After the 100-pound limit was implemented on January 1, 1987, it became apparent that the fixed gear fleet had not been fully represented at the November 1986 meeting. Other fixed gear fishermen expressed their concern that the 100-pound trip limit does not allow sufficient room for error in estimating the weight of sablefish

smaller than 22 inches on board, eliminates the few small dory operations which fish in shallow waters and rely heavily on the undersize tolerance to subsist, and caused an economic hardship to those vessels which had to slow operation in order to precisely measure the limit. At its March 9–13 and April 7–10, 1987 meetings, the Council, heard requests by these fixed gear interests to increase the trip limit. After hearing this testimony, the earlier proponents of the 100-pound limit agreed that the trip limit should be increased.

The Council's Groundfish Management Team (Team), consisting of state and Federal fishery and social scientists, analyzed the effects of various levels of a fixed gear trip limit on sablefish smaller than 22 inches. Under the current 100-pound limit, approximately 61 percent of longline trips and 52 percent of pot trips are impacted (i.e., would suffer reduced landings of small sablefish and the loss in revenue from these fish). (Longlines and pots are the major fixed gear components affected by this limit on sablefish.) It should be noted, however, that some discards of less valuable, small sablefish normally occur. The Team estimated that a trip limit of 1,000 pounds would impact 11 percent of the longline and 20 percent of the pot trips.

The Council, mindful that these percentages are based on averages and that a 1,000-pound limit could restrict operations of large-capacity vessels, agreed that a 1,500-pound trip limit was much more appropriate for fixed gear landings of sablefish smaller than 22 inches, and still would provide adequate protection of the sablefish resource.

Since the 5,000-pound trip limit in effect between 1983 and 1986 was considered sufficient to reduce the likelihood of biological stress on sablefish, anything less also would provide adequate protection. Therefore, increasing the trip limit to 1,500 pounds will still keep the risk of biological stress at minimal levels and will be based on the best available information.

Secretarial Action

For the reasons stated above, the Secretary concurs with Council's recommendation and herein announces that the portion of the management measures at 52 FR 795, second column, paragraph (2)(b), setting a 100-pound trip limit for sablefish smaller than 22 inches (total length) caught with fixed gear is changed so that no more than 1,500 pounds (round weight) of sablefish smaller than 22 inches (total length) caught with fixed gear may be taken and retained, possessed, or landed, per vessel per fishing trip. No other provision is changed by this modification.

It should be noted that one other revision previously has been made to the notice at 52 FR 795, second column, paragraph (2)(d)(1); the size limit for processed sablefish was reduced from 16 inches to 15.5 inches (52 FR 11473, April 9, 1987).

Fishing Week Definition

Council Recommendation

The Council recommended that the definition of "week" used in trip frequency restrictions for widow rockfish and the *Sebastes* complex of rockfishes be changed from Sunday-Saturday to Wednesday-Tuesday, effective May 3, 1987. The transitional period from May 3 to May 12, 1987 will be considered a week for purposes of these restrictions.

Rationale

Widow rockfish and the *Sebastes* complex of rockfishes (including yellowtail rockfish) are both managed by trip poundage and frequency restrictions which limit the number of landings above 3,000 pounds that may be made in a week. Options for twice-weekly or biweekly limits also are provided for the *Sebastes* complex. In these restrictions, a week has been defined as starting Sunday and ending Saturday. Fishing processors have noted the tendency for fishermen to make landings close to the end or beginning of the regulatory week (e.g. Saturday and Sunday) which results in disrupted weekends and overtime for employees who must be on hand for off-loading. Enforcement agents agreed that changing the fishing week to Wednesday-Tuesday would lessen their weekend responsibilities but worried that this untraditional definition might cause some initial confusion. As a result, an effective date of May 3, 1987 was agreed to, with the 10-day period from May 3 to May 12, 1987 being considered a week, so that all parties would be fully aware of this change.

This change has no effect on the resource, and is made at the request of the processing industry. Although one fisherman complained that he was losing three days of fishing opportunity by imposing the 10-day transitional "week," he was reminded that he currently could land on Saturday and again on Wednesday as would be the case during the transitional week, and that no loss of fishing time necessarily would result.

Secretarial Action

The Secretary concurs with the Council's recommendation and herein changes the following definitions as they pertain to trip frequency restrictions for widow rockfish and the *Sebastes* complex of rockfishes found at 52 FR 792 and 793 as follows:

(1) "One-week period" means seven consecutive days beginning 0001 hours Wednesday and ending 2400 hours Tuesday, local time.

(2) "Two-week period" means 14 consecutive days beginning at 0001 hours Wednesday and ending 2400 hours Tuesday, local time.

(3) Only one landing above 3,000 pounds may be made during the period from May 3 through May 12, 1987, unless fishing under the biweekly or twice-weekly trip limits for the *Sebastes* complex.

(a) If fishing under the biweekly trip limit for the *Sebastes* complex, only one landing above 3,000 pounds may be made during the period from May 3 to May 19, 1987, or from May 10 to May 26, 1987.

(b) If fishing under the twice-weekly trip limit for the *Sebastes* complex, only two landings above 3,000 pounds may be made during the period from May 3 through May 12, 1987.

All other provisions for widow rockfish and the *Sebastes* complex of rockfish published at 52 FR 790 remain in effect.

Classification

The determination to impose these fishing restrictions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the Office of the Director, Northwest Region (see **ADDRESSES**) during business hours until the end of the comment period.

These actions are being taken under the authority of 50 CFR 663.22 and 663.23, and are in compliance with Executive Order 12291. The actions are covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

Section 663.23 of the groundfish regulations states that the Secretary will publish a notice in the **Federal Register** in proposed form unless he determines that prior notice and public review are impracticable, unnecessary, or contrary to the public interest. Prompt action to revise the current fishing restrictions is necessary to alleviate further hardship on the fishing industry. Consequently, further delay of these actions is impracticable and contrary to the public interest. The change to the fixed gear trip limit for sablefish is taken in final form effective 0001 hours local time on April 27, 1987, the earliest date possible.

The provision to change the fishing week will be effective May 3, 1987, at the industry's request, so that all parties will be fully aware of the change. The States of Washington, Oregon, and California are implementing similar regulations on these dates.

The public has had opportunity to comment on these actions. The public participated at meetings of the Council and its advisory bodies on March 9–13 and April 7–10, 1987, and the Council's Groundfish Management Team on February 10–12 and March 30–April 1, 1987. Further public comments will be accepted for 15 days after publication of this notice in the **Federal Register.**

List of Subjects in 50 CFR Part 663

Fisheries, Fishing.

(16 U.S.C. 1801 *et seq.*)

Dated: April 24, 1987.

Joseph W. Angelovic,

Deputy Assistant Administrator For Science and Technology, National Marine Fisheries Service.

[FR Doc. 87–9765 Filed 4–27–87; 2:11 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 52, No. 83
Thursday, April 30, 1987

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.

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Part 456

Amendment to Guidelines and Schedule of Fees Implementing the Freedom of Information Reform Act of 1986

AGENCY: National Capital Planning Commission.

ACTION: Proposed rule.

SUMMARY: The National Capital Planning Commission (the Commission) proposes to amend its Freedom of Information Act Regulations, 1 CFR Part 456, published as amended at 47 FR 44229. These new regulations are in accordance with the Office of Management and Budget (OMB) guidelines and schedule of fees implementing the Freedom of Information Reform Act of 1986 (Pub. L. 99–570). Additional minor changes are made in accordance with revised NCPC duty assignments.

DATE: Comments must be received by June 1, 1987.

FOR FURTHER INFORMATION CONTACT: Katherine Barns Soffer, General Counsel/FOIA Officer, National Capital Planning Commission, 1325 G Street, NW., Washington, DC 20576. Telephone: (202) 724–0174.

SUPPLEMENTARY INFORMATION: This proposed rule is not a major rule for the purpose of Executive Order 12291. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

List of Subjects in 1 CFR Part 456

Freedom of information.

April 24, 1987.

Reginald W. Griffith,

Executive Director.

For the reasons set forth in the preamble, NCPC proposes to amend 1 CFR Part 456 as follows:

PART 456—NATIONAL CAPITAL PLANNING COMMISSION (FREEDOM OF INFORMATION ACT REGULATIONS)

1. The authority for Part 456 is revised to read:

Authority: 5 U.S.C. 522, as amended.

2. The table of contents for Part 1 is revised to read as follows:

Sec.
456.1 Introduction.
456.2 Organization.
456.3 Definitions.
456.4 Public access to information.

3. In Part 456 all references to "Commission's Records Management Officer" are revised to read "Freedom of Information Officer."

§ 456.2 [Amended]

4. Section 456.2 is amended to add the following paragraphs (g) and (h):

* * * * *

(g) Carto/Graphics Division.
(h) Public Affairs Division.

§ 456.3 [Redesignated as § 456.4]

5. Section 456.3 is redesignated as § 456.4, and new § 456.3, Definitions, is added as follows:

§ 456.3 Definitions.

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

(a) *Direct costs.* This term means those expenditures which the Commission actually incurs in searching for, duplicating and reviewing records.

(b) *Search.* This term includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents.

(c) *Duplication.* This term refers to the process of making a copy of a document necessary to respond to a Freedom of Information Act request.

(d) *Review.* This term refers to the process of examining documents located in response to a request that is for commercial use to determine whether any portion of any document located is permitted to be withheld, and includes processing any documents for disclosure.

(e) *Commercial use request.* This term refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is made.

(f) *Educational institution.* This term refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(g) *Non-commercial scientific institution.* This term refers to a nonprofit institution which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(h) *Representative of the news media.* This term refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use.

§ 456.4 [Amended]

6. Section 456.4(j)(1)(viii) is amended to add the following sentence to the end of the paragraph:

* * * * *

(j) * * *
(1) * * *
(viii) * * * The Commission may charge for search costs, where applicable, even if there is ultimately no disclosure of records.

* * * * *

7. Section 456.4 is amended to add the following paragraph (j)(1)(ix):

* * * * *

(j) * * *

(1) * * *

(ix) Review charges—$5.00 per quarter hour. The Commission may charge for review costs, where applicable, even if there is ultimately no disclosure of records.

* * * * *

8. Section 456.4(j)(2) is redesignated as § 456.4(j)(3) and a new § 456.4(j)(2) is added as follows:

* * * * *

(j) * * *

(2) The Commission may charge the above-stated fees for the production of information pursuant to the Act, based upon the following requester classifications:

(i) *Commercial use requester.* The Commission may charge requesters in this category for all the direct costs of searching for, reviewing for release, and duplicating the records sought. In determining whether a request is for commercial use, the Commission will look to the use to which a requester will put the documents requested. Where a requester does not explain the use or where the explanation is insufficient, the Commission may draw reasonable inferences from the requester's identity.

(ii) *Educational and non-commercial scientific institution requesters.* The Commission shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. Requesters must show that the request is being made as authorized by or under the auspices of a qualifying institution and that the records sought are not for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or non-commercial scientific research (if the request is from a non-commercial scientific institution).

(iii) *Representatives of the news media.* The Commission shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages.

(iv) *All other requesters.* The Commission may charge requesters who do not fit into any of the categories above fees which recover the full reasonable direct costs of searching for and reproducing records that are responsive to the request, excluding the first 100 pages and first two hours of search time. Requests from record subjects for records about themselves filed in the Commission's system of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction.

9. Section 456.4(j)(3) is redesignated as 456.4(j)(4) and is revised to read as follows:

(j) * * *

(4) The Commission may not charge fees to any requester if the cost of collecting the fee would be equal to or greater than the fee itself. The minimum fee for the production of information will be $2.00 (over and above the first free 100 pages and 2 hours search time, where applicable). The Commission's Freedom of Information Officer shall provide documents furnished under the Act without any charge or at a charge reduced below the fees established under § 456.3(j)(1) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and it is not primarily in the commercial interest of the requester.

* * * * *

10. Section 456.4(k)(1) is amended to add at the beginning:

* * * * *

(k) * * *

(1) * * * Where the agency estimates that duplication, review or search charges are likely to exceed $25.00, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his or her willingness to pay fees as high as those estimated.

* * * * *

11. Section 456.4(k)(2) is revised to read as follows:

* * * * *

(k) * * *

(2) Where the Freedom of Information Officer determines that fees are likely to exceed $250.00, the Commission may require advance payment of the fee in whole or in part. Where a requester has previously failed to pay a fee charged in a timely manner or is presently in arrears, the Commission may require the requester to pay the full amount owed and to make an advance payment of the full amount of the estimated fees before the agency begins to process a new request or completes a pending request.

* * * * *

12. Section 456.4 is amended to add the following paragraph (k)(4):

* * * * *

(k) * * *

(4) A requester may not file multiple requests at the same time, each seeking portions of a document(s), solely in order to avoid payment of fees. When the Commission reasonably believes a requester(s) is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Commission may aggregate any such requests and charge accordingly.

* * * * *

13. Section 454.4(l) is amended by removing the second sentence therein.

[FR Doc. 87-9639 Filed 4-29-87; 8:45 am]

BILLING CODE 7520-01-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 307 and 316

Veterans Readjustment Appointments; Temporary and Term Employment

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Office of Personnel Management (OPM) proposes to amend its regulations on the Veterans Readjustment Appointment (VRA) Program to incorporate statutory changes. The statutory authority for the VRA program as cited in the "Veterans' Benefits Improvement Act of 1984" (Pub. L. 98-543) expired on September 30, 1986. On October 28, 1986, the President signed Pub. L. 99-576, "Veterans' Benefits Improvement and Health-Care Authorization Act of 1986," extending the law through December 31, 1989. These regulations would allow agencies to use the VRA authority through December 31, 1989.

DATE: Comments must be submitted on or before June 29, 1987.

ADDRESS: Send or deliver comments to Marvin Kossmann; Chief, Veterans and Selective Placement Programs Division; Office of Recruiting and Special Personnel Programs; Career Entry Group; Office of Personnel Management; Room 7317; 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Gloria Jackson, (202) 632-7082.

SUPPLEMENTARY INFORMATION: The VRA is a special noncompetitive appointment authority applicable only to Vietnam era veterans. Agencies in the executive branch have a responsibility to provide maximum employment and advancement opportunities for qualified disabled veterans and Vietnam era veterans. Therefore, OPM is proposing to revise its regulations on the VRA program to effect the extension date of the program by amending 5 CFR Parts 307 and 316. These revisions include only the basic requirements of law and eliminate language which properly

belongs in the Federal Personnel Manual (FPM).

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined by section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal employees.

List of Subjects in 5 CFR Parts 307 and 316

Government employees, Veterans.

Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM proposes to amend Parts 307 and 316 of Title 5, Code of Federal Regulations, as follows:

PART 307—VETERANS READJUSTMENT APPOINTMENTS

1. The authority citation for Part 307 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 11521, 3 CFR 1970 Comp. p. 912, 38 U.S.C 2014.

2. Sections 307.102 and 307.103 are revised to read as follows:

§ 307.102 Coverage and general responsibilities.

(a) Federal agencies have the responsibility to provide the maximum of employment and job advancement opportunities to qualified disabled veterans and Vietnam era veterans.

(b) The Office of Personnel Management (OPM) will prescribe instructions and guidance for implementing the Veterans Readjustment Appointment Program through the Federal Personnel Manual (FPM) system.

(c) The current statutory authority for the Program extends through December 31, 1989.

§ 307.103 Appointing authority.

An agency may appoint any veteran who meets the basic veterans readjustment appointment eligibility requirements provided by law.

§ 307.104 through 307.107 [Removed]

3. Sections 307.104 through 307.107 are removed.

PART 316—TEMPORARY AND TERM EMPLOYMENT

4. The authority citation for Part 316 is revised to read as set forth below, and the authority following any section in Part 316 is removed:

Authority: 5 U.S.C. 3301 and 3302 and E.O. 10577 (3 CFR, 1954–1958 Comp. p. 218); § 316.302 also issued under 5 U.S.C. 3304(c), 38 U.S.C. 2014, and E.O. 12362; § 316.402 also issued under 5 U.S.C. 3304(c) and 3312, 22 U.S.C. 2506 (9 Stat. 371, E.O. 12137), 38 U.S.C. 2014, and E.O. 12362.

5. Section 316.302 is amended by revising paragraph (c)(2) to read as follows:

§ 316.302 Selection of term employees.

* * * * *

(c) * * *

(2) Any veteran who meets the qualifications for a veterans readjustment appointment is eligible for employment under this paragraph. The Office will prescribe instructions and guidance in FPM Chapter 316 on implementing term employment for veterans readjustment appointment eligibles.

* * * * *

6. Section 316.402 is amended by revising paragraph (b)(4) to read as follows:

§ 316.402 Authorities for temporary appointments.

* * * * *

(b) * * *

(4) Any veteran who meets the qualifications for a veterans readjustment appointment is eligible for employment under this paragraph. The Office will prescribe instructions and guidance in FPM Chapter 316 on temporary limited employment for veterans readjustment appointment eligibles.

* * * * *

[FR Doc. 87–9747 Filed 4–29–87; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–243 (Colorado—39 Addition II)]

High-Cost Gas Produced From Tight Formations; Order Withdrawing Proposed Rulemaking and Terminating Docket

Issued: April 24, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: Under section 107(c)(5) of the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission designates certain types of natural gas as high-cost gas. High-cost gas is produced under conditions which present extraordinary risks or costs and once designated may receive incentive price. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas. Jurisdictional agencies may submit recommendations of areas for designation as tight formations. Here, the Commission received a request from the Colorado Oil and Gas Commission to withdraw a recommendation previously submitted to the Commission that the Niobrara Formation underlying certain acreage in Weld County, Colorado (Colorado 39—Addition II) be designated a tight formation under § 271.703(d). The Commission grants the request for withdrawal of the recommendation, withdraws its proposed rulemaking and terminates this docket.

DATE: This order is effective May 26, 1987.

FOR FURTHER INFORMATION CONTACT:

Edward G. Gingold, (202) 357–9114

or

Victor H. Zabel, (202) 357–8737.

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Background

Section 271.703 [1] of the Federal Energy Regulatory Commission's (Commission) regulations establishes procedures and substantive guidelines whereby a jurisdictional agency may submit recommendations to the Commission that a particular formation or portion thereof be designated as a tight formation. Section 271.703(c)(2)(i) establishes the guidelines which a formation must meet to be designated as a tight formation.

On January 29, 1985, the Commission received from the State of Colorado Oil and Gas Conservation Commission (Colorado) a recommendation that the Niobrara Formation in portions of Weld County, Colorado, be designated as a tight formation. The recommended acreage is an extension of an area in which the Niobrara Formation had been previously approved as a tight formation by the Commission.[2] Pursuant to

[1] 18 CFR 271.703 (1985).

[2] Docket No. RM79–76–235 (Colorado—39), issued January 18, 1985, FERC Statutes and Regulations ¶ 30,628, 50 FR 4640 (February 1, 1985).

§ 271.703(c)(4), a Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation (OPPR) was issued on February 11, 1985, to determine whether the Colorado recommendation should be adopted.[3] No comments were received.

Discussion

In support of its recommendation, Colorado submitted a summary of core analysis data from five wells located outside the petitioned area. As authorized by § 271.703(c)(3)(vii), staff requested by letter dated May 6, 1985, that Colorado supplement its recommendation with permeability data for wells situated within the petitioned area. Without such data, the Commission's staff could not determine whether the average *in situ* gas permeability was expected to be 0.1 millidarcy or less, as provided by § 271.703(c)(2)(i)(A). Staff also requested post-stimulation production data and any other pertinent information to substantiate the recommendation that the pre-stimulation flow rate was not expected to exceed the maximum lawful rate set forth in § 271.703(c)(2)(ii). Flow rate data was not provided in the original record supporting the subject recommendation.

In response to the staff request, Kauffman and Weinberger, Inc., successor to CF & C Energy Resources indicated to Colorado that it wished to withdraw the application submitted by CF & C Energy Resources. By letter dated December 19, 1986, Colorado transmitted the applicant's request for withdrawal to the Commission and indicated Colorado's concurrence. The Commission is treating the Colorado concurrence as a request for withdrawal of its recommendation. This action is without prejudice to resubmittal of the recommendation if and at such time as additional information required by the Commission's regulations becomes available.

The Commission orders:

(A) The request by the Colorado Oil and Gas Commission that the subject recommendation for designation of a tight formation be withdrawn is granted.

(B) The Notice of Proposed Rulemaking in this docket be withdrawn.

(C) Docket No. RM79–76–243 is hereby terminated without prejudice to any subsequent recommendation that Colorado may resubmit that the Niobrara Formation be designated as a tight formation under § 271.703.

[3] 50 FR 6198, February 14, 1985.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87–9816 Filed 4–29–87; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 292

[Docket No. RM87–12–000]

Cogeneration; Small Power Production

April 24, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of public conferences; partial extension of time.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has held a series of public conferences to afford the public an opportunity to comment on issues concerning the implementation of section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 824a–3. Notice of the public conferences was issued on January 20, 1987 (52 FR 2552 (1987)). This notice extends the time for responding to questions asked by the Commissioner at the conferences

DATES: Answers to questions are due on or before May 8, 1987. The deadline for general comments remains April 30, 1987.

ADDRESS: All filings should refer to Docket No. RM87–12–000, and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, (202) 357–8400.

Notice of Extension of Time

On April 21, 1987, Oklahoma Gas and Electric Company (OG&E) filed a motion for an extension of time for the filing of final comments in response to questions at public hearings, in the above-docketed proceeding. At each of the regional hearings and at the final hearing in Washington, DC, several Commissioners directed specific questions to participants in these proceedings and asked that the participants respond to those questions in writing. OG&E's motion states that the current April 30, 1987, deadline for the filing of final comments does not permit adequate opportunity to respond to the extensive questioning which occurred during the hearings.

Upon consideration, notice is hereby given that an extension of time for the filing of answers to specific questions asked by individual Commissioners during the above-mentioned hearings is granted to and including May 8, 1987. Respondents to questions asked during the public hearings should identify the specific questions to which they are responding. The deadline for all general comments remains April 30, 1987.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87–9815 Filed 4–29–87; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 357

[Docket No. 82N–0168]

Benign Prostatic Hypertrophy Drug Products for Over-the-Counter Human Use; Proposed Rulemaking; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the notice of proposed rulemaking that would establish conditions under which over-the-counter (OTC) benign prostatic hypertrophy drug products (drug products used to relieve the symptoms of enlarged prostate gland) are generally recognized as safe and effective and not misbranded (February 20, 1987; 52 FR 5406). The section numbers under Subpart L—Benign Prostatic Hypertrophy Drug Products were inadvertently misnumbered. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN–210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8000.

SUPPLEMENTARY INFORMATION: In FR Doc. 87–3570 appearing at page 5406 in the **Federal Register** of Friday, February 20, 1987, the following corrections are made:

PART 357—[AMENDED]

In the second and third columns on page 5410 under Subpart L—Benign Prostatic Hypertrophy Drug Products "§§ 357.1001, 357.1003, 357.1010, and 357.1050" are corrected to read "§§ 357.1101, 357.1103, 357.1110, and 357.1150," respectively, everywhere they appear.

Dated: April 24, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-9732 Filed 4-9-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modifications to the Missouri Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of a proposed amendment to Missouri's initial and permanent regulatory programs (hereinafter referred to as the Missouri program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The proposed amendment consists of changes in Missouri's law and regulations concerning bonding, backfilling and grading, tree and shrub stocking, bond types and conditions, bond liability release criteria for temporary structures, pattern of violations requirements and enforcement actions for notices of delinquent reclamation.

This notice sets forth the times and locations that the Missouri program and the proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing, if one is requested.

DATES: Written comments from the public not received by 4:30 p.m. June 1, 1987, will not necessarily be considered in the decision process. A public hearing on the proposed amendments will be held upon request at 1:00 p.m. May 26, 1987, at the Kansas City Field Office. Any person interested in making an oral or written presentation at the hearing should contact Mr. William J. Kovacic at the Kansas City Field Office by May 15, 1987. If no person has contacted Mr. Kovacic by that date to express an interest in the hearing, the hearing will be cancelled. If only one person requests an opportunity to speak at the hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record. If possible, a notice of the meeting will be posted in advance at the locations listed under **"ADDRESSES"**.

ADDRESSES: Written comments and requests for a public hearing should be directed to Mr. William J. Kovacic, at the address or telephone number listed below.

Copies of the Missouri program, the proposed modifications to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for review at the OSMRE and the office of the State regulatory authority listed below, Monday through Friday, during normal business hours, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting the OSMRE Kansas City Field Office.

William J. Kovacic, Director, Office of Surface Mining Reclamation and Enforcement, Kansas City Field Office, Room 502, 1103 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374-5527

Office of Surface Mining Reclamation and Enforcement, Headquarters Office, Room 5315Am 1100 L Street, NW., Washington, DC 20240

Missouri Department of Natural Resources, Land Reclamation Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, Missouri 65102

FOR FURTHER INFORMATION CONTACT: Mr. William J. Kovacic, Director, Office of Surface Mining Reclamation and Enforcement, Kansas City Field Office, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106, Telephone: (816) 374-5527.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior approved the Missouri program on November 21, 1980 (45 FR 77017-77028). Information pertinent to the general background and revisions, to the permanent program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Missouri program can be found in the November 21, 1980 **Federal Register** (45 FR 77017). Subsequent actions concerning proposed amendments and the conditions of approval are codified at 30 CFR 925.10, 925.15 and 925.16.

II. Submission of Amendment

By letter dated February 4, 1987, Administrative Record No. MO-307, Missouri submitted certain proposed revisions to the Missouri regulatory program. These revisions are intended, in part, to satisfy eight required amendments imposed as part of the rulemaking approving an earlier amendment (30 CFR 925.15).

The revisions modify sections of the Revised Statutes of Missouri (RSMo) at 444.950; 444.960; and 444.965, RSMo 1986, as summarized briefly below:

1. Missouri proposes to amend 444.950, RSMo 1986, to raise the performance bond to $2,500 from $500 per acre. The increased bond applies to undisturbed acres under existing permits and acres proposed for permit. This change is in response to an OSMRE letter written under 30 CFR 732.17(d) concerning the adequacy of the bonding system.

2. Missouri proposes to amend 444.960 and 444.965, RSMo 1986, to raise the reclamation bond fund ceiling from three million dollars to seven million dollars.

This change is in response to an OSMRE letter written under 30 CFR 732.17(d) concerning the adequacy of the bonding system.

The revisions also modify sections of the Missouri Code of State Regulations (CSR) at: 10 CSR 40-2.090(5); 10 CSR 40-3.040 (2), (6), and (17); 10 CSR 40-3.110(1); 10 CSR 40-3.120(7); 10 CSR 40-3.200 (2) and (16); 10 CSR 40-3.270(7); 10 CSR 40-7.011 (2) and (3); 10 CSR 40-7.021(2); 10 CSR 40-7.031; 10 CSR 40-7.041 (1), (2), and (3); and 10 CSR 40-8.030 (6) and (18) as summarized briefly below:

1. Missouri proposes to amend 10 CSR 40-2.090(5)(B) to vest the director, as opposed to the Land Reclamation Commission, with the authority to determine when a revegetated area is ready for livestock grazing. This change would streamline the process of making decisions on requests from operators to graze livestock on areas where the operator's liability for reclamation bond has not been released. This revision would also make this initial rule consistent with the permanent program rules.

2. Missouri proposes to amend 10 CSR 40-3.040 and 10 CSR 40-3.200, requirements for protection of the hydrologic balance. Missouri proposes to delete 10 CSR 40-3.040(2)(B)7 and 10 CSR 40-3.200(2)(A)7 and add new subsections 10 CSR 40-3.040(2)(B) and 10 CSR 40-3.200(2)(B) on water quality and effluent limitations for both surface

and underground mining to be in compliance with applicable State and Federal water quality laws and regulations. Missouri proposes to revise subsection 10 CSR 40–3.040(6)(Q) addressing sedimentation ponds to be consistent with OSMRE regulation 30 CFR 816.49(a). Missouri proposes to revise subsections 10 CSR 40–3.040(17)(A) and 10 CSR 40–3.200(16)(A) and add subsections 10 CSR 40–3.040(17)(B) and 10 CSR 40–3.200(16)(B) on stream buffer zones for both surface and underground mining to be consistent with 30 CFR 816.57.

3. Missouri proposes to amend 10 CSR 40–3.110(1)(A)3 dealing with backfilling and grading requirements to redefine contemporaneous reclamation time frames.

4. Missouri proposes to amend 10 CSR 40–31.20(7)(A)2.A and 10 CSR 40–3.270(7)(A)2.A to extend the length of time during which revegetation standards must be met for forest land from one growing season to two growing seaons. This proposed revision is in response to condition 925.16(a) that was placed on program amendment 925.16(c).

5. Missouri proposes to amend 10 CSR 40–7.011(2)(D). The proposed change is to raise the required bond amount from $500 per acre to $2,500 per acre. This change is in response to a OSMRE letter sent pursuant to 30 CFR 732.17(d) concerning the adequacy of the bonding system.

6. Missouri proposes to amend 10 CSR 40–7.011(3)(B) to require banks issuing certificates of deposit posted as bonds to waive all rights of setoff or liens against those certificates. This proposed revision in response to condition 925.16(b) that was placed on program amendment 925.15(c)

7. Missouri proposes to amend 10 CSR 40–7.011(3) (B) and (C) to require that notification be provided to the regulatory authority and the permittee of the insolvency or bankruptcy of the bank issuing letters of credit or holding certificates of deposit, and to initiate the subsequent chain of required events. This proposed revision is in response to condition 925.16(c) that was placed on program amendment 925.15(c).

8. Missouri proposes to amend 10 CSR 40–7.021(2) (A) and (C) that deal with release of Phase I and II bond and reclamation liability for temporary sedimentation structures. This proposed revision is in response to condition 925.16(d) that was placed on program amendment 925.15(c).

9. Missouri proposes to amend 10 CSR 40–7.031 dealing with permit suspension or revocation, bond forfeiture and authorization to expend reclamation fund monies. The revision to subsection 10 CSR 40–7.031(2) addressing the procedures used to act on a complaint for permit revocation were in response to condition 925.16(e) that was placed on program amendment 925.15(c). The revisions to 10 CSR 40–7.031(1) addressing the review of a pattern of violations were to add a mandatory review of the permittees history of violations to determine whether a pattern of violation exists when a permittee fails to abate a violation or a cessation order.

10. Missouri proposes to amend CSR 40–7.041(1) and (2) to raise the reclamation fund ceiling from three million dollars to seven million dollars. Once the fund reaches this ceiling, permittees no longer pay the yearly assessment on the first 100,000 tons sold or otherwise disposed. Should expenditures occur from the fund for reclamation, a surcharge is imposed until the fund reaches the ceiling. This change also raises the per acre bond from $500 to $2,500 per acre. These revisions were made in response to an OSMRE letter sent pursuant to 30 CFR 732.17(d) concerning the adequacy of the bonding system.

11. Missouri proposes to revise 10 CSR 40–7.041(3) dealing with the penalties for delinquent payment of fees to the bond reclamation fund. The present rule requires that the director issue a Notice of Violation (NOV) when payments to the fund are delinquent. Missouri proposes to amend the rule to make the twenty-five cent penalty a requirement in addition to the NOV. Also a provision for issuance of a cessation order was added if the NOV is not abated in the required timeframe. This proposed revision is in response to condition 925.16(f) that was placed on program amendment 925.15(c).

12. Missouri proposes to revise 10 CSR 40–8.030(6) and (18) to establish the same cessation order standard for failure to abate a notice of delinquent reclamation as for failure to abate other violations. Also, Missouri proposes to amend its program to provide standards for extension of the 90-day abatement period for notices of delinquent reclamation consistent with 30 CFR 843.12 and to include language clarifying that the penalty of twenty-five cents per ton may be imposed only in addition to, not in place of, the approved civil penalty provisions of 10 CSR 40–8.040. These proposed revisions are in response to condition 925.16(g) and (h) that were placed on program amendment 925.15(c).

Therefore, the Director is seeking public comment on the adequacy of the proposed program amendments. Comments should specifically address the issues of whether the proposed amendments are in accordance with SMCRA and no less effective than its implementing regulations.

III. Additional Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE and exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and Regulatory review by OMB.

The Department of the Interior has determined that this rule would not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)*. This rule would not impose any new requirements; rather it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 925

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: April 22, 1987.

Jerry R. Ennis,

Acting Assistant Director, Western Field Operations, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 87–9825 Filed 4–29–87; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7–87–8]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Florida Department of Transportation, the Coast Guard is considering adding regulations governing the Jewfish Creek drawbridge at Key Largo by permitting the number of openings to be limited during certain periods. This proposal is being made because of complaints of delays to vehicular traffic. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before June 15, 1987.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 51 SW. 1st Avenue, Miami, Florida 33130-1608. The comments and other materials referenced in this notice will be available for inspection and copying at 51 SW. 1st Avenue, Room 816, Miami, Florida. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments also may be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Lee, Chief, Bridge Section, Seventh Coast Guard District, telephone (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Proposed Regulations

The Jewfish Creek bridge currently is required to open on signal at all times. The relatively low clearance (11 feet) results in frequent opening, especially on weekends and holidays. Waterway and highway traffic both tend to be concentrated during these periods, resulting in significant congestion and delays for motorists. The proposed rule should reduce highway traffic congestion caused by back-to-back bridge openings by allowing sufficient time for auto traffic to disperse between openings. An editorial change also is proposed to revise the heading for 33 CFR 117.261 to extend coverage to Key Largo.

Economic Assessment and Certification

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

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-(g).

2. The heading for § 117.261 is revised and § 117.261(qq) is added to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(qq) *Jewfish Creek, mile 1134, Key Largo.* The draw shall open on signal, except that on Fridays from 3 p.m. to sunset, and Saturdays and Sundays from 10 a.m. to sunset, the draw need open only on the hour, twenty minutes after the hour and forty minutes after the hour. When a federal holiday occurs on a Friday, the draw need open only on the hour, twenty minutes after the hour, and forty minutes after the hour from 12 noon to sunset on the Thursday before the holiday, and from 10 a.m. to sunset on Friday (holiday), Saturday, and Sunday. When a federal holiday falls on a Monday, the draw need open only on the hour, twenty minutes after the hour, and forty minutes after the hour from 12 noon to sunset on the Friday before the holiday, and from 10 a.m. to sunset on Saturday, Sunday, and Monday (holiday).

Dated: April 16, 1987.

H.B. Thorsen,

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

[FR Doc. 87-9777 Filed 4-29-87; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7 87-11]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Florida Department of Transportation (FDOT) and St. Johns County, the Coast Guard is considering a change to the regulations governing the Vilano Beach bridge on State Road A1A at Vilano Beach, Florida, by permitting the number of openings to be limited during certain periods. This proposal is being made because of compliants about vehicular traffic delays. This action should accommodate the needs of highway traffic and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before June 15, 1987.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 51 SW. 1st Avenue, Miami, FL 33130-1608. The comments and other materials referenced in this notice will be available for inspection and copying at 51 SW. 1st Avenue, Room 816, Miami, Florida. Normal office hours are from 7:30 a.m. to 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Lee, Chief Bridge Section, Seventh Coast Guard District, telephone (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Proposed Regulations

The Vilano Beach bridge currently opens on signal for the passage of vessels. FDOT and St. Johns County have requested that the draw open on the quarter and three-quarter-hour daily from 7 a.m. until 6 p.m., with no opening on weekdays at 8:15 a.m., 12:15 p.m., and 5:15 p.m.

The Coast Guard has carefully evaluated the FDOT/County proposal. Vessel holding area is limited south of the Vilano Beach bridge and waterway safety would be reduced if vessels were required to wait for more than 20 minutes. The number of monthly bridge openings fluctuates significantly, and restrictions on opening appear to be most appropriate during the period from mid-March through mid-December.

The proposed rule change developed by the Coast Guard should reduce or eliminate highway traffic congestion caused by "back-to-back" opening during the busiest times of the year. Operating the drawspan on a 20-minute schedule should allow sufficient time for accumulated vehicular traffic to disperse between openings.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46: 33 CFR 1.05–1(g).)

2. Section 117.261(c) is added as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.261 Atlantic Intracoastal Waterway, St. Marys River to Key Largo.

* * * * *

(c) *Vilano Beach (SR A1A) bridge, mile 778 at Vilano Beach.* The draw shall open on signal; except that, from March 15 through December 15, from 7 a.m. to 6 p.m. Monday through Friday, except Federal holidays, and from 9 a.m. to sunset on Saturdays, Sundays, and Federal holidays, the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour.

* * * * *

Dated: April 24, 1987.

M.J. O'Brien,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 87–9778 Filed 4–29–87; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD5–87–011]

Drawbridge Operation Regulations; Severn River, MD

ACTION: Supplemental Proposed Rule To CGD5–86–02.

SUMMARY: At the request of the Maryland Department of Transportation, State Highway Administration, the Coast Guard is considering a further change to the regulations governing the operation of the State Route 450 drawbridge across the Severn River, mile 3.0, at Annapolis, Maryland, by limiting the number of openings during daylight hours throughout the boating season and during vehicular rush hours during other months of the year when both vessel and vehicular traffic remain heavy. This proposal is being made because the volume of vehicular traffic and the number of bridge openings have steadily increased in recent years, resulting in heavy traffic congestion on S.R. 450. This action should help relieve the highway traffic congestion and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before. June 15, 1987.

ADDRESSES: Comments should be mailed to Commander (oan), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, VA 23704–5004. The comments and other materials referenced in this notice will be available for inspection and copying at the above address, Room 609. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, at the above address, or telephone number (804) 398–6222.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or agruments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Fifth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Ann B. Deaton, project officer, and CDR Robert J. Reining, project attorney.

Discussion of Proposed Regulations

In 1985, the Maryland Department of Transportation petitioned the Coast Guard to consider changing the regulations governing operation of the S.R. 450 bridge across the Severn River by limiting the number of openings during the boating season. (This bridge is required by the regulations to open on signal at all times.) The requested schedule provided for hourly openings during daylight hours from May through October. The bridge would open on signal during the rest of the year. In response to the State's request, the Coast Guard published a proposed rule (50 FR 17071) on May 8, 1986 concerning this amendment. The Commander, Fifth Coast Guard District, also published the proposal as a Public Notice dated May 23, 1986. In each notice, interested persons were given until June 23, 1986, to submit comments. As a result of these notices, the Coast Guard received 70 responses from boaters and motorists. 64 comments opposed the proposed schedule, and 6 were in favor or it. Many of the comments offered various alternate schedules to regulate openings of the bridge. Some of the suggestions included: No formal schedule, but the bridge openings every 10 to 15 minutes during periods of heavy boat traffic; bridge openings on demand at all times; no openings during rush hours; hourly

openings during rush hours with openings on the half-hour during the remainder of the day.

In mid-1986, the Maryland Department of Transportation again petitioned the Coast Guard to change the regulations for this bridge, but modified their original proposed schedule. The State's new proposal included restricted openings during certain "off-season" months as well as hourly openings during the boating season.

In order to discuss this requested change, the Coast Guard met with representatives of the Maryland Department of Transportation on July 16, 1986. During this meeting, the Maryland DOT discussed a need for hourly restrictions during daylight hours from May through October. They also requested that the draw only open on the hour during rush hours in other months of the "off-season" when boating activity on the Severn River remains fairly heavy.

The State presented additional evidence to the Coast Guard which demonstrated that such restrictions would appear to have a beneficial effect on the flow of vehicular traffic, relieve congestion, and reduce lengthy highway delays.

The logs and charts examined by the Coast Guard failed to support the need for opening restrictions on Sundays, or at any time during the period from 15 December through 15 March. Vehicular traffic across the bridge on Sundays is minimal. From mid-December to mid-March, boat traffic is minimal to non-existent. The State also agreed that on the three most popular holidays during the boating season—Memorial Day, Independence Day, and Labor Day—the bridge would open on signal. The State noted that this bridge is used mainly as a commuter route by people who live and work in Annapolis, and not as a recreational route for motorists.

In view of the discussions and the State's newly demonstrated need for opening restrictions during certain periods of heavy vehicular and boat traffic, the Coast Guard agreed to present a modified proposed schedule to the public for their review and comment.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The proposed regulation will have no effect on commercial navigation on the Severn River, and no commercial, water-dependent activities are expected to be affected. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.572 is added to read as follows:

§ 117.572 Severn River.

(a) The draw of the SR 450 bridge, mile 3.0, at Annapolis shall open on signal from December 16 through March 15, and on each Sunday, Memorial Day, Labor day and Independence Day.

(b) From November 1 through December 15 and from March 16 through April 30, Monday through Saturday, the draw shall open only on the hour from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m. for the passage of pleasure vessels. At all other times, the draw shall open on signal.

(c) From May 1 through October 31, Monday through Saturday, the draw shall open only on the hour from 7 a.m. to 7 p.m. for the passage of pleasure vessels. On each Wednesday, one additional opening at 6:30 p.m. will be provided for sailboats that wish to participate in the weekly races. At all other times, the draw shall open on signal.

(d) If a pleasure vessel is approaching the drawbridge and cannot reach the draw exactly on the hour, the draw-tender may delay the hourly opening up to ten minutes past the hour for the passage of the approaching pleasure vessel and any other pleasure vessels that are waiting to pass.

(e) The draw shall open on signal for public vessels of the United States, State or local vessels used for public safety, commercial vessels, and vessels in distress.

Dated: April 20, 1987.

B.F. Hollingsworth,

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

[FR Doc. 87–9779 Filed 4–29–87; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–93, RM–5632]

Radio Broadcasting Services; Montour Falls, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Twin Tiers Communications Corp. requesting the substitution of Channel 258A for Channel 285A at Montour Falls, New York, and the modification of its license for Station WNGZ–FM to specify operation on the new channel. Twin Tiers states that the substitution of channels would eliminate a short-spacing problem with two Syracuse area Class B stations which cause interference within Station WNGZ–FM's 1 mV/m contour. Channel 258A can be allocated with a site restriction of at least 12.81 kilometers (7.96 miles) to avoid a short-spacing to Stations WDCX, Buffalo, New York, and WOKW, Cortland, New York. However, since this distance is beyond that from which we can assume compliance with the city-grade coverage requirement, petitioner is requested to furnish a study showing that Station WNGZ–FM could provide the required 70 dBu city-grade signal over the entire community. Canadian concurrence in the allocation is required since Montour Falls is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before June 8, 1987, and reply comments on or before June 23, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554 In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–93, adopted March 27, 1987, and

released April 17, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–9783 Filed 4–29–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Parts 73 and 76

[Gen. Docket No. 87–24; FCC 87–65]

Mass Media Services; Developing Policies on Exclusive Contractual Arrangements for the Exhibition of Video Programming by Broadcasters; Syndicated Exclusivity, Network Non-Duplication, Territorial Exclusivity.

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry and notice of proposed rulemaking (NOI/NPRM).

SUMMARY: The NOI/NPRM initiates a rulemaking to develop policies on exclusive contractual arrangements for the exhibition of certain video programming by broadcasters.

In this Notice the Commission considers three matters: (1) Whether to amend program exclusivity rules to reinstate some form of syndicated exclusivity rules that would permit broadcasters to enter into exclusive agreements to show syndicated programming; (2) modification of the network non-duplication rules (§ 76.92) which currently permit broadcasters to show network programming on an exclusive basis; and (3) relaxation or elimination of the territorial exclusivity rules (§ 73.658) which delineate the maximum amount of geographic exclusivity a TV broadcast station may receive from the provider of non-network syndicated progamming. These three issues are closely related analytically because they all concern the rights of broadcasters and programmers to negotiate for program exclusivity arrangements as well as competition among various media outlets. The existence (or absence) of rules in all these areas has much to do with the control over exhibition enjoyed by the copyright owner. Hence any actions the Commission may take in this proceeding may affect the incentives parties have to create video programming and/or distribute it through particular media.

The Commission believes that copyright holders, broadcasters, and cable systems face appropriate incentives to lead them to enter into or not enter into exclusive exhibition arrangements where and when they will improve efficiency. Therefore, it seeks comment on whether it is in the public interest to amend its rules to restore the option of exclusivity to copyright holders and broadcasters. Applying this same analysis it seeks comments on whether the network non-duplication rules should be expanded to be consistent with syndicated exclusivity. Similar analysis also leads it to inquire whether relaxation or elimination of our non-network territorial exclusivity rules in broadcasting would increase the efficiency of the programming and distribution markets. A related NOI on compulsory copyright licensing (Gen. Docket 87–25; FCC 87–66) also has been released by the Commission.

DATES: Comments should be filed on or before June 22, 1987 and Reply comments on or before August 6, 1987.

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

FOR FURTHER INFORMATION CONTACT: Kenneth Gordon (202) 653–5940.

SUPPLEMENTARY INFORMATION: This is a summary of the Commisson's NOI/NPRM, Gen. Docket No. 87–24, FCC 87–65, Adopted February 12, 1987, and released April 23, 1987.

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.

Summary of Notice of Inquiry and Notice of Proposed Rulemaking

In 1972, the Commission first adopted syndicated exclusivity rules. These rules gave program owners and broadcasters the ability to show their material on an exclusive basis, by allowing them to bar cable systems from importing such programming from distant markets.

In 1976, Congress approved a general revision of the Copyright Act. It provided for a compulsory license, authorizing cable systems to retransmit non-network broadcast programming upon payment of a specified percentage of their revenues. Fees thus collected are distributed among the owners of the copyrighted programs used. License fees are adjusted and their disposition supervised by a Copyright Royalty Tribunal. This differs from most other copyright royalty arrangements, which are privately negotiated by the parties.

In 1980 the Commission deleted the distant signal carriage and syndicated exclusivity rules. This reduced the rights of the holder of a copyright on a creative work over the distribution of that work. Without these rules, syndicated programming may be picked up off the air and distributed to as many cable markets as desired, provided the cable systems using this material make copyright payments as specified in the 1976 Copyright Act.

The Commission has proposed repromulgating some form of syndicated exclusivity rules governing carriage by cable TV systems of imported broadcast signals. It also proposed strengthening the current network non-duplication rules to better conform with the proposed new syndicated exclusivity rules and deleting the television non-network program territorial exclusivity requirement contained in § 73.658(m) of the rules. In each case, the proposed rule change would serve to increase the protection given the programming contracted for by the broadcaster.

Since 1976 there has been a radical transformation in the technical, economic and regulatory environment for video programming. New methods of program distribution have dramatically lowered costs of signal importation and made it feasible to import signals from more remote locations. In addition, the FCC amended its rules to delete the syndicated exclusivity rule and its limitations on importation of distant signals. The unintended result of these changes, the Commission says, may

have been to weaken the protection afforded to buyers and sellers of copyrightable material, given the existence of compulsory licensing. This progressive attenuation of property rights may have undesirable effects. First, the repeal of syndicated exclusivity may have unduly shifted the competitive balance in cable's favor and against other programming outlets. Second, repeal of the rule has restricted the ability of broadcasters and program producers to negotiate freely enforceable contracts. These effects, by themselves, cause the Commission concern and lead it to ask whether it should consider reinstatement of the rule. The Commission notes that repeal may have had additional effects as well—such as discouraging optimal investments in copyrightable programming material and efficient program promotion. It invites comment on these effects as well, recognizing that they are less susceptible to proof. It seeks comment, moreover, on whether the first two reasons mentioned above provide a sufficient basis for Commission action.

The Commission notes that the same arguments for reintroducing syndicated exclusivity rules apply to the strengthening of the network non-duplication rules which currently govern cable carriage of network programs on imported signals. The network non-duplication rules are analogous to the syndicated exclusivity rules because they allow a network affiliate to prevent a cable system from importing another affiliate's signal into its market, preserving the affiliate as the exclusive distributor of the network's programming.

The Commission also suggests that then on-network territorial exclusivity 35-mile rule may no longer be desirable. First, it operates as an impediment to competition in the market for non-network television programming. Exclusivity agreements negotiated freely in the market may in fact provide an incentive for the production of new programming by producing more profitable contracts for program suppliers and stations. Second, the wide variation in programs, stations and markets tends to make a general exclusivity rule impractical. Limiting exclusivity to a specific geographic area frequently results in artificial markets that do not respresent the actual competitive reality confronting stations.

The Commission noted, however, that it may be the case that the best way to deal with this set of problems is for Congress to revise the compulsory license action of the 1976 Copyright Act to assign full copyright control over product distribution to the actual producers. To that end, the FCC issued a separate Notice of Inquiry on the compulsory copyright license. (Gen. Docket 87–25; FCC 87–66).

Procedural Matters

This is a non-restricted notice and comment rulemaking proceeding. *See* § 1.1231 of the Commission's rules, 47 CFR 1.1231 for rules govrning permissible *ex part* contracts.

Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested parties may file comments on or before June 22, 1987 and reply comments on or before August 6, 1987. An original and 5 copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the Commission. All relevant and timely comments will be considered by the Commission before this action is taken in this proceeding. In reaching its decision, the Commission may consider information and ideas not contained in the comments provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

As required by section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth above. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to regulatory flexibility analysis.

This Notice of Inquiry and Notice of Proposed Rule Making is issued pursuant to authority contained in sections 4(i), 4(j), 303(r) and 403 of the Communications Act of 1934, as amended. 47 U.S.C. 154(i), 154(j), 303(r) and 403, 90. Accordingly, *It Is Proposed* that the Commission's rules *Be Amended* as set forth in the preceeding paragraphs.

For further information concerning this proceeding, contact Kenneth Gordon, Office of Plans and Policy, (202) 653–5940.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–9786 Filed 4–29–87; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 52, No. 83
Thursday, April 30, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed Fee Schedule for Electronic Communication Sites and Request for Public Review and Comments

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed fee schedule.

SUMMARY: The Northern Region, administering those National Forests in the States of Montana, North Dakota, a portion of South Dakota, and northern Idaho, is revising procedures governing determination of rental fees for communication sites. A rental fee study and a fee schedule have been prepared and are available for review and comment.

SUPPLEMENTARY INFORMATION: The Forest Service administers approximately 300 communication site authorizations in Montana, North Dakota, a portion of South Dakota, and north Idaho. The previous policy for determining annual land use rental fees was a type of schedule or formula. Fees were based on 0.2 percent of the authorization holder's total investment value for communication facilities and equipment plus 5 percent of the rental income from building tenants and/or equipment users served by the holder. Fees for many holders are currently at levels of $25 to $975/year while private land rentals for communication sites are in the $200 to $5,000/year range.

Revised Forest Service National policy contained in **Federal Register** Vol. 50, page 40574, dated October 4, 1985, established that electronic communication site fees are now to be based on the fair market value of the rights and privileges authorized rather than on a percentage of investment value and rental income. This change is consistent with requirements of the Federal Land Policy and Management Act of 1976 and accompanying regulations.

Future fees are to be determined by individual appraisals, competitive bidding, or a fee schedule derived through market analysis. The Northern Region has determined a fee schedule would be an appropriate cost-effective method to be used for electronic communication sites in Montana, North Dakota, part of South Dakota, and north Idaho. When appropriate, as determined by the Regional Forester, individual site appraisals or competitive bidding can be used to establish fees on large or unique sites or where a competitive interest exists. No sites of this nature were identified during the Northern Region study.

Proposed Fee Schedule

The proposed rental fee schedule has been prepared based on (1) analysis of market data of similar uses in Montana, North Dakota, and north Idaho, and some adjoining states, and (2) sound business management principles. The schedule would establish annual rental fees by type of electronic use for the Northern Region. After implementation the fee schedule will be updated annually by application of the Urban Consumer Price Index and further updated by new market studies and analysis at 5-year intervals.

These fees would be applicable to holders of electronic communication site or facility special-use authorizations after review of public comments and publication of a final notice and fee schedule in the **Federal Register.** During the interim, fees for existing authorizations will continue unchanged, and fees for new authorizations will be established by negotiation, using the proposed schedule as a basis unless appraisal or competitive bidding is more appropriate.

Proposed Annual Fee Schedule

Summary

1. *Common Carrier Microwave*
   Proposed Fee:..... $1,500
2. *Industrial Microwave*
   Proposed Fee:..... $1,000
3. *Passive Reflector*
   Proposed Fee:..... $500
4. *TV and Radio Broadcast*
   Proposed Fee:..... $3,000
5. *Cable TV*
   Proposed Fee:..... $2,150—over 60,000 population served.
   $1200—10,000–60,000
   $250—under 10,000 population served.
6. *Broadcast Translators*
   Proposed Fee:..... $900
7. *Two-Way Radio Site Only*
   Proposed Fee:..... $500
   Site With Forest Service Building Space
   Proposed Fee:..... $700
8. *Commercial Communicator*
   Proposed Fee:..... $600 with/one user+$250/additional two-way radio user or 50 percent of the full fee for the kind of electronic use.

Shared Space

Electronics space is frequently shared by several users within an authorized building at a Forest Service electronic site. These conditions are also found in non-Federal sites. A common fee for second and subsequent users is 50 percent of sublease shared space rentals, although this was found to range from 100 percent downward. Market information also indicates that sublease rentals tend to correlate to category of use, similar to primary use rentals.

We have administratively determined that secondary and subsequent user fees of 50 percent of the full fee for the kind of electronic use are fair and reasonable to electronic site users in this category and to the public. With the implementation of the electronics site fee schedule, fees for secondary and subsequent users will be established on this basis.

Under this approach primary users would pay the Forest Service the appropriate shared-service fee for each of their tenants/users, and are free to negotiate a reasonable charge with their tenants.

Miscellaneous Electronic Uses

A review of Forest Service records discloses a number of authorized electronic uses for which the market analysis provided insufficient

information on market rent. Many of these uses involved "receive only" equipment, such as TV and radio receiving antennas, satellite dishes, and other equipment or structures designed solely for the reception of electromagnetic signals. Some miscellaneous uses, such as amateur radio, involve both transmit and receive structures and equipment.

There are comparatively few of these installations in the Northern Region. Fair market value of these uses can be established administratively through consideration of sound business management principles as provided in Secretary of Agriculture's Regulation 36 CFR 251.57a. The Northern Region, Forest Service, has reviewed available information and the market analysis for other electronic uses as listed in the Proposed Annual Fee Schedule and concluded that an appropriate annual fee for various miscellaneous electronic uses not otherwise identified in the summary is $150 per unit. A unit is defined as one receiving antenna, one transmit/receive antenna combination serving one radio, one satellite dish, etc. An annual fee of $150 for miscellaneous electronic uses is considered applicable.

The field of electronics is expanding rapidly. Some specific uses, such as cellular telephone, are not yet located in the Northern Region. Other electronic uses are in developmental stages. The proposed Northern Region fee schedule is not intended to include these new and developing uses. Fees will be established on the basis of appraisal, sound business management principles, and/or negotiation when these new and developing uses become operational in the Northern Region.

Proposed Implementation

After review of public comments and publication of a final notice in the **Federal Register**, a fee schedule will be implemented for all Northern Region electronic site special-use authorizations with billings for calendar year 1988 fees. Where a fee increase occurs, that portion of the new fees that exceeds 100-percent increase over and above $100 may be phased in over a 3-year period.

Applicability

Fees proposed according to this schedule would apply to each electronic use on National Forest System lands in the Northern Region.

Under certain qualifying circumstances, as provided by Secretary of Agriculture's Regulations 36 CFR 251.57b and current Forest Service policy, fees may be waived or reduced. Such waiver is discretionary rather than mandatory. These procedures are not affected by the proposed fee schedule.

Copies of this notice and the proposed fee schedule are being mailed to holders of existing communication site authorizations and will also be sent to anyone requesting copies from the contacts listed in this notice. The rental fee study and schedule are also available for review at the Regional Office and Forest Supervisors' offices in Montana and north Idaho.

DATE: Comments on the proposal must be received, in writing, on or before July 1, 1987.

ADDRESS: Send comments on the proposal to James C. Overbay, Regional Forester, Northern Region, USDA Forest Service, Federal Building, P.O. Box 7669, Missoula, MT 59807.

FOR FURTHER INFORMATION, CONTACT: Jim Schoenbaum (406–329–3601) or Jim Hathaway (406–329–3110).

Dated: April 20, 1987.

James C. Overbay,

Regional Forester.

[FR Doc. 87–9718 Filed 4–29–87; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Environmental Statement; Yuma Mesa Watershed, AZ

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969; as amended; the Council on Environmental Quality NEPA Regualtions (40 CFR Parts 1500–1508); and the Soil Conservation Service NEPA Procedures (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 Yuma Mesa Watershed, Yuma County, Arizona.

FOR FURTHER INFORMATION, CONTACT: Verne M. Bathurst, State Conservationist, USDA Soil Conservation Service, 201 East Indianola Avenue, Suite 200, Phoenix, AZ 85012, Telephone (602) 241–2247.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federal action indicates that the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Verne M. Bathurst, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This project concerns improving irrigation systems and providing increased irrigation water management technical assistance. The expected results will be the saving of 36,800 acre-feet of water and the reduction of saline waste water being returned to the Colorado River. (Over-irrigation water is saline and is returned, in part, to the Colorado River).

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 at the above address to fill single copy requests. Basic data developed during the environmental assessment are in file and may be reviewed by contacting Verne M. Bathurst.

No administrative action on implementation of this 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: April 23, 1987.

Verne M. Bathurst,

State Conservationist.

[FR Doc. 87–9715 Filed 4–29–87; 8:45 am]

BILLING CODE 3410–16–M

Union County Road Backslopes Critical Area Treatment Measure, Georgia; Finding of No Significant Impacts

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impacts.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of 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 Union County Road Backslopes Critical Area Treatment Measure, Union County, Georgia.

FOR FURTHER INFORMATION CONTACT: B.C. Graham, State Conservationist, Soil Conservation Service, Federal Building,

Box 13, 355 East Hancock Avenue, Athens, Georgia 30601; Telephone: 404–546–2273.

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, B.C. Graham, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The measure concerns a plan for the treatment of critically eroding roadbank areas. The planned works as described in the Finding of No Significant Impact consists of the establishment of erosion control vegetation of 53 acres.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency, Federal, State, and local agencies, and interested parties. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. B.C. Graham. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken under 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. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: April 24, 1987.

B.C. Graham,

State Conservationist.

[FR Doc. 87–9753 Filed 4–29–87; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration

Title: Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

Form number: Agency—N/A; OMB—N/A

Type of request: New Collection

Burden: 1000 respondents; 170 reporting hours

Needs and uses: Biological stock assessments indicate that the conditions of Spanish mackerel resource is poor. Under this requirement Spanish mackerel will be managed under a recreational and commercial quota for the first time. Commercial fishermen and charter vessel owners or operators must obtain permits for fishing for Spanish mackerel. The information will be used for enforcement purposes.

Affected public: Businesses or other for-profit institutions; small businesses or organizations

Frequency: Annually

Respondent's obligation: Mandatory

OMB Desk Officer: John Griffin, 395–7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room 6228, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffin, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: April 27, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87–9839 Filed 4–29–87; 8:45 am]

BILLING CODE 3510–CW–M

International Trade Administration

[Docket No. 6681–01]

Actions Affecting Export Privileges; Herbert H. Ross, Respondent

Summary

Pursuant to the consent agreement reached by the Department of Commerce and Herbert H. Ross in the above captioned proceeding and approved by the Administrative Law Judge in his Recommended Decision and Order, Herbert H. Ross, 2636 Enterprise Road, Clearwater, Florida 33510, is hereby denied all export privileges for 30 years from the date of this order. Additionally, he is assessed a civil penalty of $30,000, of which $26,000 shall be suspended for a period of three years and then waived, provided Ross commits no violations of the Export Administration Act during that period.

Order

On March 18, 1987, the Administrative Law Judge entered an order approving the consent proposal submitted by the parties in the above matter. The order was referred to me pursuant to section 13(c) of the Export Administration Act of 1979, 50 U.S.C. app. 2401–2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985) and 15 CFR 388.23 for final action. Having examined the record and based on the facts addressed in this case, I affirm the order of the Administrative Law Judge.

This constitutes final agency action in this matter.

Dated: April 27, 1987.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

Decision and Order

In the Matter of Herbert Harris Ross, Respondent.

[Docket No. 6681–01]

Appearance for Respondent: Charles A. Buford, Esq., MacPherson, Harper, Kynes, Geller, Watson & Buford, P.A., 2560 Gulf to Bay Boulevard, Suite 300, Clearwater, FL 33575.

Appearance for Agency: Mac Reed, Esq., Attorney-Advisory, Office of the Deputy Chief Counsel for Export Administration, U.S. Department of Commerce, Room H–3329, 14th and Constitution Avenue, NW., Washington, DC 20230.

Decision

On September 24, 1986 the Office of Export Enforcement, Intenational Trade Administration, U.S. Department of Commerce (the "Agency"), issued a charging letter against Respondent Herbert Harris Ross. This letter charged that Respondent had violated §§ 387.2, 387.4, and 387.6 of the Export Administration Regulations (currently codified at 15 CFR Parts 368–399 (1986)) (the "Regulations), promulgated pursuant to the Export Administration Act (50 U.S.C. app. 2401–2420).

The charging letter alleged violations of the Regulations by Respondent in two sets of transactions. First the letter charged that, between August 8, 1981 and January 27, 1982, Respondent had violated §§ 387.2 and 387.4 of the Regulations by causing the export of U.S.-origin computer equipment from the United States to Australia, the Federal Republic of Germany, Greece, Switzerland, and the United Kingdom without having applied for and obtained the U.S. validated export licenses that

Respondent knew or had reason to know were required by § 372.1(b) of the Regulations. Second, the letter charged that, on January 29, 1982 and April 17, 1982, Respondent had violated §§ 387.4 and 387.6 of the Regulations by exporting two shipments of U.S.-origin computer equipment from the United States to the Federal Republic of Germany and the United Kingdom without having applied for and obtained the U.S. validated export licenses that Respondent knew or had reason to know were required by § 372.1(b) of the Regulations.

In settlement of these charges, Respondent and the Agency, under § 388.17 of the Regulations, have entered into a Consent Agreement that impose upon Reespondent: (a) A Civil penalty of $30,000, with $26,000 to be suspended; and (b) a denial of U.S. export privileges for 30 years. The Undersigned approves the terms of the Consent Agreement.

Order

Accordingly, pursuant to the authority delegated to the undersigned by Part 388 of the Regulations, it is hereby ordered as follows.

1. Respondent shall pay a civil penalty of $30,000, in the manner specified in the attached instructions, according to the following schedule. Within 20 days of service upon Respondent of the final order in this proceeding, $1,000 shall be paid; and, on or before the last day of each of the 30 months after such $1,000 payment, $100 shall be paid, for a total of $3,000 over the 30 payments of $100 each. Payment of the remaining $26,000 shall be suspended for three years from the date of entry of a final order in this proceeding; and payment of such $26,000 shall be waived at the end of such three-year period, without any further order or action, provided that Respondent, during such period, has committed no violation of the Act or of the Regulations, or of any order or license issued under the Act or the Regulations.

2. All outstanding vaildated export licenses in which Respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation.

3. For a period of 30 years from the date that this order is affirmed, Respondent

Herbert Harris Ross, 2636 Enterprise Road, Clearwater, Florida 33510

and his successors, assignees, partners, representatives, agents, and employees are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data, in whole or in part, exported from the United States or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation, directly or indirectly, in any manner or capacity:

a. As a party or as a representative of a party to a validated export license application submitted to the Department;

b. In preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith;

c. In obtaining from the Department or using any validated or general export license or other export control document;

d. In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using or disposing of any commodities or technical data, in whole or in part, that are exported or to be exported from the United States or that are otherwise subject to the Regulations; and

e. In the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data that are subject to the Act and the Regulations.

4. Such denial of export privileges may, after notice and opportunity for comment, also be made applicable to any person, firm, corporation, or business organization with which Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

5. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to the U.S.-origin commodities and technical data that are subject to such denial of export privileges, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Respondent, or whereby Respondent may obtain any benfit therefrom or have any interest in or participation therein, directly or indirectly:

a. apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported, by, to, or for Respondent; or

b. order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

6. In accordance with the Export Administration Act (50 U.S.C. app. 2412(c)(1)) and § 388.16 of the Regulations, the foregong constitutes the Decison and Order of the undersigned in this proceeding. The Order shall become effective if and when it is affirmed by the Secretary pursuant to the Export Administration Act (50 U.S.C. app. 2412(c)(1)) and § 388.23 of the Regulations.

Dated: March 18, 1987.

Thomas W. Hoya,

Administrative Law Judge.

[FR Doc. 87-9840 Filed, 4-29-87; 8:45 am]

BILLING CODE 3510-OT-M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by John K. DeLyser from an Objection by the New York Department of State

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Request for comments.

On January 8, 1987, the Secretary of Commerce received a letter on behalf of John K. DeLyser (Appellant) filing a Notice of Appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. 1456(c)(3)(A), and the Department of Commerce's implementing regulations, 15 CFR Part 930, Subpart H. The appeal is taken from an objection by the New York Department of State of Appellant's consistency certification for F-86-565 U.S. Army Corps of Engineers Permit Application No. 86-370-44 under section 10 of the River and Harbor Act of 1899, for after-the-fact approval for sinking pilings for a boathouse containing a residential unit in Sodus Bay, Leroy Island, Huron, New York. Appellant perfected his appeal on March 13, 1987 by filing supporting information and data.

The Appellant requests that the Secretary find that his project may be

approved by the Corps of Engineers based on the statutory grounds set forth in CZMA section 307(c)(3)(A) for overriding a State's objection. To make this determination, the Secretary must find that the project furthers one or more of the national ojectives contained in section 302 or 303 of the CZMA; that the adverse effects of the project do not outweigh its contribution to the national interest; that the project will not violate the Clean Air Act or the Federal Water Pollution Control Act; and that no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with the State's coastal management program.

Public comments are invited on the findings that the Secretary must make as set forth in the regulations at 15 CFR 930.121. Comments are due within thirty days of the publication of this notice. Comments should be sent to Sydney Minnerly, Attorney/Adviser, Office of General Counsel, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1825 Connecticut Avenue, NW., Suite 603, Washington, DC 20235. Copies of comments should also be sent to Samuel A. Dispenza, Jr., Esquire, 349 West Commercial Street, East Rochester, NY 14445–0149 and Mr. George R. Stafford, Director, Division of Resources and Waterfront Revitalization, New York Department of State, 162 Washington Street, Albany, NY 12231.

All nonconfidential documents submitted or received in this appeal are available for public inspection during business hours at the office of Samuel A. Dispenza, Jr., Esquire, the New York Department of State, and the Office of General Counsel, NOAA, 1825 Connecticut Avenue, NW., Suite 603, Washington, DC 20235.

FOR ADDITIONAL INFORMATION CONTACT: Sydney Minnerly, Attorney/Adviser, Office of General Counsel, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603 Washington, DC 20235 (202) 673–5200.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance]

Dated: April 22, 1987.

Daniel W. McGovern,

General Counsel.

[FR Doc. 87–9720 Filed 4–29–87; 8:45 am]

BILLING CODE 3510–08–M

Marine Mammals; Issuance of Permit; Dr.Steven L. Swartz

On February 9, 1987, notice was published in the **Federal Register** (52 FR 4044) that an application had been filed by Dr. Steven L. Swartz, for a permit to take gray whales (*Eschrichtius robustus*) for scientific research and to enhance the propagation and survival of the species.

Notice is hereby given that on April 24, 1987, as authorized by the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361 through 1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531 through 1543), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this Permit; and (3) will be consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with and is subject to Parts 220 through 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

This Permit is available for review in the following offices:

Office of Protected Species and Habitat Conservation, 1825 Connecticut Avenue NW., Room 805, Washington, DC 20235 and

Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731–7415.

Dated: April 24, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87–9830 Filed 4–29–87; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Patent Licensing Specialist, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 6–650,739 (4,647,533)
Method For Screening Bacteria and Application Thereof for Field Control of Pythium Spp. on Small Grain Crops

SN 6–715,229 (4,643,756)
Bioherbicide for Florida Beggarweed

SN 6–814,944
Process for Preparing Seed Germinating Stimulants

SN 6–818,564 (4,649,738)
Fluidic Permeability Measurement Bridge

SN 6–903,173
Arlysulfonium Cellulosic Fibers Sustantive to Many Dye Classes

SN 6–905,297
Recombinant *Brucella abortus* Gene Expressing Immunogenic Protein

Department of Commerce

SN 6–666,594 (4,647,933)
Phased Antenna Array for Wind Profiling Applications

SN 6–747,486
Method and Mechanism For Fixturing Objects

Department of Health and Human Services

SN E–521–86
Peptides with Laminin Activity

SN E–98–97
Oxyhydrogen Catalytic Thermal Tip for Angioplasty

SN 6–602,946 (4,647,773)
Method of Continuous Production of Retroviruses (HTLV–III) From Patients with AIDS and PreAIDS

SN 6–607,160 (4,649,040)
Therapy for Retinoid Pathogenesis

SN 6–643,729 (4,652,599)
Method of Continuous Production of Retroviruses (HTLV–III) from Patients with AIDS and Pre-AIDS Using Permissive Cells

SN 6–741,600 (4,656,033)
Isolated, Soluble Immunogen Against Schistosoma Mansoni and A Method of Vaccination Employing Same

SN 6–775,479
Method for Producing Fusion Proteins
SN 7–010,424
Vector for Recombinant Poxvirus Expressing Rabiesvirus Glycoprotein
SN 7–010,467
Process for Isolation of the B Oligomer of Pertussis Toxin
SN 7–016,427
Adaptive Ultrasonic Phased Array Imaging System and Method Therefor
SN 7–017,701
Antineoplastic, System—L Specific Amino Acid Nitrogen Mustards

Department of the Air Force

SN 6–403,215 (4,626,068)
Photoactive Coating For Hardening Optical Fibers
SN 6–497,443 (4,639,075)
Distortion Free Fiber Optic System
SN 6–544,553 (4,634,493)
Method For Making Semiconductor Crystals
SN 6–607,087 (4,626,775)
Radio Frequency Probing Apparatus For Surface Acoustic Wave Devices
SN 6–623,586 (4,630,246)
Seismic-Acoustic Low-Flying Aircraft Detector
SN 6–629,865 (4,633,418)
Battery Control and Fault Detection Method
SN 6–657,097 (4,628,598)
Mechanical Locking Between Milti-Layer Printed Wiring Board Conductors and Through-Hole Plating
SN 6–666,511 (4,636,858)
Extracting Digital Data From A Bus and Multiplexing It With A Video Signal
SN 6–672,239 (4,628,396)
High Voltage Disconnect/Reconnect Switching Device
SN 6–680,432 (4,635,266)
Active Dispersion Control For A Doppler Broadened Laser
SN 6–680,611 (4,629,379)
Adapter Pallet System
SN 6–690,541 (4,634,854)
Moving Aperture Device For Reducing Scattered Light In An Optical System
SN 6–698,962 (4,639,586)
Optically Phased Laser Transmitter
SN 6–698,963 (4,632,341)
Stabilizing Force Feedback In Bio-Actuated Control Systems
SN 6–721,834 (4,630,004)
Dielectric Resonator Stabilized Microstrip Oscillator
SN 6–724,713 (4,625,972)
Semi-Two-Dimensional Decoys
SN 6–724,714 (4,639,688)
Wide-Band Phase Locked Loop Amplifier Apparatus
SN 6–736,898
Synthetic Aperture Laser Radar
SN 6–739,413 (4,633,516)
Instantaneous Frequency Measurement Receiver With Digital Processing
SN 6–743,550 (4,635,299)
Discrete Phase Conjugate Technique for Precompensation of Laser Beams Transmitted Through Turbulence
SN 6–765,764 (4,635,552)
Unique Signal, Safe and Arm Device
SN 6–767,578 (4,630,010)
Low Pass T-Section Digital Phase Shifter Apparatus
SN 6–768,790 (4,628,593)
Method for Fabricating Battery Plaque and Low Shear Nickel Electrode
SN 6–777,141 (4,627,195)
Computer Controller Optical Surfacing (CCOS) LAP Pressure Control System
SN 6–779,403 (4,629,297)
Active Secondary Mirror Mount
SN 6–782,332 (4,637,550)
Dual Material Exhaust Nozzle Flap
SN 6–804,193 (4,635,709)
Dual Mode Heat Exchanger
SN 6–805,518 (4,637,259)
Fatigue Test Machine
SN 6–818,923 (4,636,679)
Piezoelectrically Driven Fast Response High-Torque Clutch Unit
SN 6–838,855 (4,633,198)
Flexible (Multi-Mode) Waveform Generator
SN 6–865,323
Holder For Milling Countersink Filler Plugs
SN 6–881,420
Optical Correlator For Analysis of Random Fields
SN 6–902,554
Ultrasonic Assisted Paint Removal
SN 6–905,439
Externally Vaporizing System for Turbine Combustor
SN 6–916,963
Method and Apparatus for Synthesizing A Single Crystal Of Indium Phosphide
SN 6–917,573
Gas Driven System for Preparing Large Volumes of Non-Oxidized, Pyridoxylated, Polymerized Stroma-Free Hemoglobin Solution For Use As A Blood Substitute
SN 6–926,061
Tubular Luminescence Photovoltaic Array
SN 6–927,020
Air Launched Cruise Missile (ALCM) Restraint Assembly
SN 6–935,362
A Method To Produce Metal Matrix Composite Articles From Lean Metastable Beta Titanium Alloys
SN 6–935,363
A Method to Produce Metal Matrix Composite Articles From Rich Metastable Beta Titanium Alloys

Department of the Army

SN 7–002,835
Non-Destructive Semiconductor Chip Bonding and Chip Removal
SN 7–010,674
Millimeter Wavelength Monolithic Ferrite Circulator/Antenna Device

Tennessee Valley Authority

SN 6–785,310 (4,636,303)
Beneficiation of Dolomitic Phosphate Ores

[FR Doc. 87–9811 Filed 4–29–87; 8:45 am]
BILLING CODE 3510–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent (NOI) to Prepare a Supplemental Environmental Impact Statement for the Operation of the Johnston Atoll Chemical Agent Disposal System (JACADS)

AGENCY: Department of the Army, DOD.

ACTION: Notice of Intent (NOI) to prepare a supplemental environmental impact statement for disposal of wastes generated from the operation of the chemical agent disposal system of Johnston Atoll.

SUMMARY:

1. Action

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Army intends to prepare a Supplemental Environmental Impact Statement (SEIS) for the disposal System (JACADS) located on Johnston Atoll (JA). Johnston Atoll is 717 nautical miles west, southwest of Honolulu, Hawaii. It is administered by the Department of Defense (DOD), and is also under the purview of the Department of the Interior (because JA is a National Wildlife Refuge). The JACADS facility will be used to destroy chemical munitions and agents stored at Johnston Atoll by incineration. The Final Environmental Impact Statement (FEIS) for the JACADS project was published in November 1983 (FR Vol. 48, No. 221, pg 51951, dated November 15, 1983). The FEIS indicated that the scrubber brines generated by air pollution control equipment incorporated into the JACADS facility would be dried, drummed, and stored at Johnston Island until an permanent disposition is identified. The 1983 FEIS also stated

that the agent-free scrap metal that JACADS generates would be ocean disposed. Incenerator ash was to be disposed in the burn pit area of Johnston Island. The Record of Decision for the 1983 FEIS did not select a final disposal alternative for the JACADS solid wastes, but the scrubber brines were to be dried, drummed, and stored on JA, pending the outcome of additional studies to select a final disposition alternative. This supplemental EIS will assess the impacts of all reasonable waste disposal alternatives formulated as a result of those studies, will update other information contained in the FEIS, and will present the results of studies completed subsequent to the FEIS.

2. Alternatives

The SEIS will include an evaluation of the potential environmental impacts associated with each disposal alternative under consideration. The no action alternative of on-island storage of JACADS wastes is not to be considered a final disposal alternative, but will be asessed in the SEIS. The Army has no preferred alternative for waste disposal at the time. Public comment on the NOI and on the Draft SEIS will influence the selection of a preferred alternative. The following constitutes a list of those alternatives to be considered in the SEIS.

a. Disposal alternatives for the liquid scrubber brine resulting from the JACADS pollution abatement system. This scrubber brine will contain inorganic salts and trace amounts of other compounds.

(1) Ocean discharge of the liquid scrubber brine by vessel in a deep water site about 13 to 19 miles south of JA.

(2) Ocean discharge of liquid scrubber brine through an outfall pipe from shore to deeper water three miles offshore.

(3) Drying the brine to salts, placing the salts in containers and shipping the containers to approved waste disposal facilities in the United States.

(4) Ocean disposal of containerized, dried brine salts in a deep water site about 13 to 19 miles south of JA.

b. Disposal alternatives for solid wastes, including ash, fiberglass residue, and mixed waste (ash/fiberglass/non-recyclable metal) generated by JACADS. Recyclable metal will also be generated by JACADS and will be sold as scrap.

(1) Containerization of the solid wastes and shipment to approved waste disposal facilities in the U.S.

(2) On-island or other use of concrete-encapsulated solid waste.

(3) Ocean disposal of concrete-encapsulated solid wastes in a deep water site about 13 to 19 miles south of JA.

C. The no action alternative of on-island storage of containerized dried brine salts and solid wastes until permanent disposition is identified.

Permits or approvals from EPA, DOD, the Defense Nuclear Agency, the Department of the Interior, or the Army Corps of Engineers will be required, depending on which alternatives are selected.

3. Scoping Process

The Department of the Army recognizes its responsibility to dispose of wastes in an environmentally acceptable manner. The Army further recognizes the need the National Environmental Policy Act (NEPA) to discuss and analyze, in appropriate environmental documentation, the potential impact of such disposal and to consider the potential environmental impact in its decision making process. The army has and will continue to utilize the scoping process, as outlined by the Council on Environmental Quality Regulations implementing NEPA, to determine significant issues related to the disposal of JACADS waste. The scoping process for JACADS waste disposal incorporates appropriate public participation, including Federal, State and local agencies, as well as private organizations, interested individuals and communities adjacent to the affected environment. A preliminary scoping meeting was held with interested Federal agencies on 24 March 1986, and the U.S. Environmental Protection Agency (EPA) has held public scoping meetings and public hearings as part of an ocean disposal site designation process for JACADS wastes. The EPA filed a Draft Environmental Impact Statement (DEIS) for ocean disposal site designation in September 1985. Concerns expressed during these meetings will be discussed in the SEIS along with any additional comments on other disposal alternatives received as a result of this NOI.

To provide an opportunity for further public input to the scoping process, government agencies, private organizations and intersted individuals are invited to submit information and comments on JACADS waste disposal for consideration by the Army and possible incorporation into the SEIS. Particularly solicited is information that would assist the Army in a analyzing the potential environmental consequences of the various disposal alternatives. This includes environmental issues which the SEIS should consider, other reasonable alternatives, major impacts associated with the disposal options, and recommended mitigation measures. Comments and questions regarding the scope of the environmental analysis should be submitted to the Program Manager for Chemical Munitions (Demilitarization and Binary) (Provisional), ATTN: AMCPM–CM–TP (Mr. Richard Rife), Aberdeen Proving Ground, MD 21010–5401. To ensure that comments regarding this proposal are considered in a timely manner, all correspondence should be received at the address above not later than 45 days following the publication of this NOI in the **Federal Register.**

4. Draft SEIS Preparation

The draft SEIS is expected to be available to the public in July 1987. When the draft SEIS is completed, a public notice of its availability for review will be published in the **Federal Register**, so that interested persons may comment on the document. If warranted, a schedule of public hearings to solicit public response to the document will also be announced. Persons desiring to be placed on a mailing list to receive copies of the draft and final SEIS may contact Mr. Richard Rife at the address above. Copies of the November 1983 JACADS EIS may be obtained by writing to the address above or to the Commander, U.S. Army Engineer Division, Pacific Ocean, ATTN: PODED–PV, Ft. Shafter, HI 96858–5440.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health OASA (I&L).

[FR Doc. 87–9762 Filed 4–29–87; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Supplemental Environmental Impact Statement (SEIS) for the Proposed Flood Control and Navigation Improvements of the Trinity River From the Houston Ship Channel Across Trinity Bay to Five Miles Upstream of Liberty, TX

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement (SEIS).

SUMMARY:

1. Description of Proposed Action

The proposed study is intended to identify feasible alternatives and recommendations for improvements of flood control and navigation channel for the Trinity River from the Houston Ship

Channel to river mile 45 above Liberty, Texas.

2. Alternatives for the Proposed Action

Several alternatives have and are presently being explored. Alternatives under consideration include:

a. A 200-foot bottom width multiple-purpose channel (navigation and flood control).

b. Channel with 110-foot bottom width for flood control and navigation.

c. A 75-foot bottom width navigation and flood control channel.

d. No action.

3. Public Involvement

Coordination with Federal and State agencies, local government, and interested individuals will be maintained throughout the study. No public meetings are currently scheduled.

4. Significant Issues

The potential impacts of the "Channel to Liberty" project on cultural resources will be discussed in the SEIS. In the study, environmental impacts pertaining to water quality, socio-economics, fish and wildlife resources, and recreation will also be assessed.

5. Public Availability of the SEIS

The SEIS is presently scheduled to be available in September of 1987.

Additional information concerning the proposed project may be requested from: Mr. J.D. Davis, SWFPL–R, U.S. Army Corps of Engineers, Fort Worth District, P.O. Box 17300, Fort Worth, Texas 76102–0300.

A.J. Genetti, Jr.,

Colonel, CE, District Engineer.

[FR Doc. 87–9714 Filed 4–29–87; 8:45 am]

BILLING CODE 3710-FR-M

DEPARTMENT OF ENERGY

Nevada Operations Office; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Dose Assessment Advisory Group (DAAG).

Date and Time:

Wednesday, May 20, 1987, 8:30 a.m.–4:00 p.m.

Thursday, May 21, 1987, 9:00 a.m.–3:45 p.m.

Friday, May 22, 1987, 8:30 a.m.–12:00 Noon

Place: U.S. Department of Energy, Nevada Operations Office Auditorium, 2753 South Highland Drive, Las Vegas, Nevada.

Contact: Charles M. Campbell, Deputy Project Manager, Off-Site Radiation Exposure Review Project, Nevada Operations Office, U.S. Department of Energy, Post Office Box 14100, Las Vegas, Nevada 89114, Telephone: (702) 295–0991.

Purpose of the Group

To provide the Secretary of Energy and the Manager, Nevada Operations Office, with advice and recommendations pertaining to the Off-Site Radiation Exposure Review Project (ORERP). This project concerns the evaluation and assessment of the amount of radiation received by members of the off-site population surrounding the Nevada Test Site (NTS) as a result of the nuclear test operations conducted at NTS.

Tentative Agenda

May 20, 1987

Welcome
Overview
Town Data Base
County Data Base
External Dose Assessment Estimates
PATHWAY Analysis
Internal Dose Estimates via Ingestion
Inhalation Dose Estimates
Summary of ORERP Results
Quality Assurance
Future of the CIC
ORERP Book
Review of Final Report
Public Comment (5-minute rule)

May 21, 1987

Press Conference
Technical Briefings to State Representatives
Soils Data Base
QA Report on Soils Data Base
Meteorological Modeling of Fallout Patterns
Technical Development of County Data Base
Phase III Wrap-up
Projected Completion of Soils Analyses
Public Comment (5-minute rule)

May 22, 1987

Document Collection
CIC Report
Survey Meter Data Base
Fallout Pattern Analysis of SIMON
Fallout Pattern Analysis of ZUCCHINI and TRINITY
Individual Dose Assessment Model
Public Comment (5-minute rule)
DAAG Comments

Public Participation

The meeting is open to the public. The Chairperson of the Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles Campbell at the address or telephone number listed above.

Transcripts

Available for public review and copy at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except federal holidays.

Issued in Washington, DC on April 24, 1987.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87–9766 Filed 4–29–87; 8:45 am]

BILLING CODE 6450-01-M

Floodplain Involvement Notification; Industrial Wastewater Pretreatment Facility at the DOE Kansas City Plant; Allied Corp., Bendix Kansas City Division

AGENCY: Department of Energy.

ACTION: Floodplain involvement notification.

DATE: Comments must be filed by May 15, 1987.

ADDRESS: Address comments or requests to the Albuquerque Operations Office, Department of Energy, P.O. Box 5400, Albuquerque, New Mexico, 87115. All comments should refer to the project by title.

FOR FURTHER INFORMATION CONTACT: Earl W. Bean, Area Manager, Kansas City Area Office, Department of Energy, P.O. Box 202, Kansas City, Missouri 64141.

I. Project Description

The proposed project is to construct a 37,000 square-foot steel frame building to house industrial wastewater pretreatment equipment. The building will be located in an area east of Building 15 and north of Building 58, part of which is now occupied by a salvaged materials storage lot. In addition to all pretreatment process equipment and tankage, the building will house sludge handling and storage equipment, chemical storage and feed equipment, and office/control room, a laboratory, and rest rooms.

The plant will treat industrial wastewater from the DOE manufacturing facility that presently

flows into the south lagoon and then to the city sanitary sewer. Three wastestreams contribute to lagoon influent: Acid wastewater, caustic wastewater, and industrial wastewaters, as defined by 40 CFR Part 433, plus other wastewaters from manufacturing and support operations. The plant will also treat concentrated solutions from metal finishing processes that are presently hauled off site for disposal by a subcontractor. The pretreatment plant will treat or remove cyanide, ammonia, metals (including hexavalent chromium and chelated metals), acids, caustics, and organic pollutants.

Regulated rinsewaters and other non-regulated pipe wastewaters will be treated by a continuous-flow process consisting of flow equalization, hexavalent chromium reduction, cyanide destruction, hydroxide precipitation, filtration, and pH adjustment. Concentrated solutions containing cyanide, chromium, acids, and caustics will be bled into the continuous-flow treatment process. Concentrated solutions containing ammonia and chelated metals will be treated in batches by sulfide precipitation and then bled into the continuous flow process. The continuous flow process will be designed to treat 1.5 million gallons per day, with provisions for future expansion such as addition of air stripping or increased flow equalization.

The Federal Complex, in which the subject facility will be sited, is located entirely within the Blue River floodplain but is outside the Blue River floodway. According to the U.S. Army Corps of Engineers, flood protection is currently in place for a 70-year occurrence. The flood protection system is complete to the 500-year level along the Blue River and is complete to the 70-year level along Indian Creek. Flooding at the Kansas City Plant would halt the generation of dilute wastestreams by halting all manufacturing in the Plant, prevent the movement of operating personnel into and out of the pretreatment facility, and would also disrupt delivery of spent plating baths and treatment chemicals and removal of sludge. The proposed site for the pretreatment facility is at an elevation of approximately 796 feet above mean sea level (MSL); the 100-year flood level is at 800 MSL. The delivery of wastewaters to the facility would be affected so that effluent could not be mixed with floodwaters if the city sewer system became surcharged. Utility services to the facility should not be affected by localized flooding. However, pretreatment operations would be halted if pump motors and the motor control center were flooded. Water damage to the facility would be limited to non-watertight electrical equipment; generally, the facility and its equipment will be made of corrosion-resistant materials. The velocity of floodwaters at the pretreatment facility should not be sufficient to cause structural damage.

II. Floodplain Effects

Construction of the proposed Industrial Wastewater Pretreatment facility will have no measurable impact on the basic characteristics of the Blue River floodplain. The portion of the flood protection system currently in place already restricts the floodway of the Blue River and Indian Creek from flowing through the Federal Complex. The Kansas City Plant resides on a very compact, highly developed site within the completed portion of the flood protection system. The plant occupies 136 acres, only 3 percent of which is readily available for future development. The remainder of the site is already allocated to buildings, parking lots, drainage facilities and other permanent structures. Because the Federal Complex is essentially "fully developed" an evaluation of effects on flora and fauna in the area is judged to be unnecessary.

III. Alternatives

Available areas on which to site the pretreatment facility are limited. Locating the facility closer to sources of wastewater would be desirable from an economic standpoint. However, sufficient land area is not available and, in any case, the facility would still be in the floodplain. Increasing flood protection levels for the entire Federal Complex to a 200–500 year occurrence is under consideration as a possible FY 1990 line item construction project. The scope of the project being considered includes additional floodwalls, stop log gaps, and pedestrian access/closure gates.

The potential for flood-related damage to the pretreatment facility could be reduced by setting the tops of containment walls and the floors above the current level of flood protection. This action would lessen the chance of inundating equipment and stored chemicals. However, the release of industrial wastes to the environment will be prevented by halting the flow of wastewater to the pretreatment facility (i.e., stopping factory operations during a flood) and by storing sludge above the current flood protection level.

Another alternative action which may avoid or mitigate adverse floodplain/wetland impacts is to not construct the Industrial Wastewater Pretreatment Facility. However, this action could cause the complex to periodically exceed the applicable pretreatment standards and to be in noncompliance with these regulations. Therefore, the "no action" alternative is legally unacceptable.

Dated: April 22, 1987.

Donald Ofte,

Principal Assistant Secretary for Defense Programs, Department of Energy.

[FR Doc. 87–9742 Filed 4–29–87; 8:45 am]

BILLING CODE 6450–01–M

Floodplain Involvement Notification; Pedestrian Safety Roadway Relocation at the DOE Kansas City Plant; Allied Corp., Bendix Kansas City Division

AGENCY: Department of Energy.

ACTION: Floodplain involvement notification.

DATE: Comments must be filed by May 15, 1987.

ADDRESS: Address comments or request to the Albuquerque Operations Office, Department of Energy, P.O. Box 5400, Albuquerque, New Mexico 87115. All comments should refer to the project by title.

FOR FURTHER INFORMATION CONTACT: Earl W. Bean, Area Manager, Kansas City Area Office, Department of Energy, P.O. Box 202, Kansas City, Missouri 64141.

I. Project Description

The proposed project is located on the Department of Energy (DOE) and General Services Administration properties, a part of the South Kansas City, Missouri, Federal Complex, located at 2000 East 95th Street; 1500 East Bannister Road; and 2306 95th Street, respectively.

The proposed project will consist of the relocation of part of the existing 95th Street as it runs from Michigan Avenue to the new bridge over the Blue River east of the Internal Revenue Service (IRS) facility. Pedestrian safety will be increased by minimizing the amount of parking south of the thoroughfare and constructing a pedestrian tunnel under the relocated roadway. This will also provide an expanded security control area directly in front of the main offices of the DOE facility. The increased security will be achieved by creating a fenced outer security buffer zone between the existing perimeter fence and the public roadway.

The Federal Complex, in which the proposed project is to be conducted, is

located entirely within the Blue River floodplain. According to the U.S. Army Corps of Engineers, flood protection is currently in place for a 70-year occurrence.

From the 1940's to 1964, the area south of 85th Street and east of the railroad tracks was a landfill used for the deposition of plant wastes. General plant refuse, trash, rubble, and metal shavings were routinely buried. Historical accounts of isolated incidents of disposal of liquids and plating waste have been reported. The landfill is now referred to as the IRS Landfill because of its proximity to the IRS facility. The nature of waste in the area has been generally characterized, and data obtained from monitoring wells in the vicinity suggest that the area is a minor source of groundwater contamination.

Six borings were drilled in June 1985, from which a total of 26 split-spoon samples were retrieved. Samples were collected from both the fill and the subjacent alluvium.

Twenty-two samples were analyzed for metals. Eight of these samples with high metal concentrations were also subjected to a leach test, applying the EP Toxicity Method to six metals: cadmium, chromium, copper, lead, nickel, and zinc. A total of nine samples were analyzed for volatile and semivolatile Priority Pollutants.

In addition to the laboratory analyses, organic vapors were monitored during drilling and sampling. An unidentified gas, believed to be methane, was noted in a number of borings.

As noted above, the IRS Landfill contains some plating wastes as well as metal shavings from machining operations. Either source could produce the total metal concentrations observed.

The results of the leach test demonstrate that none of the samples were hazardous with respect to lead, cadmium, and chromium. Copper, nickel, and zinc are not EP Toxicity metals, so regulatory standards for leachability do not exist. The data indicate, however, that these three metals are not leachable.

The site characterization study confirms historical reports of a general refuse landfill without concentrated sources of hazardous waste.

II. Floodplain Effects

The proposed construction to relocate 95th Street will have no measurable impact on the basic characteristics of the Blue River floodplain. The portion of the flood protection system currently in place already restricts the floodway of the Blue River and Indian Creek through the Federal Complex. The Kansas City Plant resides on a very compact, highly developed site within the completed portion of the flood protection system. The plant occupies 136 acres, only 3 percent of which is readily available for future development. The remainder of the site is already allocated to buildings, parking lots, drainage facilities, and other permanent structures. Because of this essentially "fully developed" characteristic of the Federal Complex, it is not believed necessary to evaluate effects on flora and fauna in the area.

III. Alternatives

Part of the proposed relocated roadway will cross an area that has been identified as an abandoned landfill. Analysis of landfill contents by drilling has not revealed any significant hazards. However, to limit surface percolation and to prevent migration of potential pollutants, an impervious seal will be placed under the roadway where it crosses the IRS landfill. This seal will extend beyond the edge of any roadway section a distance sufficient to allow placement of additional seal material to cover a larger area at a later date without jeopardizing the waterproof characteristics of the original seal. The seal will be impervious to methane gas which is present in small quantities in the landfill. Various methods to be reviewed for sealing the landfill are available; representative samples are given in U.S. Department of Commerce Manuals, PB82–239054, dated March 1982, and AD/AL40–655, dated February 1984. Increasing flood protection levels for the entire Federal Complex to a 200–500 year occurrence is being considered as a FY 1990 line item construction project. The scope would include construction of additional flood walls, stop log gaps, and pedestrain access/closure gates.

Alternate sites for the proposed roadway were considered, but all potential sites are within the same floodplain. Since the roadway will not adversely affect the floodplain, there is no advantage to a "no action" alternative. Flood induced damages to the roadway will be minimal, with some temporary rerouting of city traffic during the period of high water, and consist only of repairs to signal and tunnel lighting.

Dated: April 22, 1987.

Donald Ofte,

Principal Assistant Secretary for Defense Programs, Department of Energy.

[FR Doc. 87–9743 Filed 4–29–87; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Finding of No Significant Impact (FONSI) for Proposed Funding of the Umatilla Fish Hatchery

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Finding of No Significant Impact (FONSI) for Bonneville Power Administration's proposed funding of the Umatilla Fish Hatchery.

SUMMARY: The proposed Umatilla Fish Hatchery would be located at either of two adjacent sites on the banks of the Columbia River, 14 miles downstream of McNary Dam. The hatchery will mitigate the adverse effects of Columbia River hydroelectric development on anadromous fish runs in the Umatilla River. BPA's funding of the hatchery is consistent with the goals of the Pacific Northwest Electric Power Planning and Conservation Act and with the Columbia River Basin Fish and Wildlife Program. BPA has completed an Environmental Assessment (DOE/EA–0310) on construction and operation of the proposed hatchery. Alternatives analyzed in the EA are: (1) A downstream site alternative; (2) an upstream site alternative; (3) a no-expansion hatchery alternative at one of the sites; and (4) an expanded-hatchery alternative at one of the sites. Juvenile fish releases from the hatchery would result in approximately 5400 adult summer steelhead and possibly 7500 adult chinook salmon (for an expanded-hatchery alternative) returning to the Umatilla basin. None of the impacts from any of the analyzed hatchery site or expansion alternatives are considered significant because: resident fish and aquatic species will not be displaced by the introduced anadromous fish since an abundance of spawning and rearing habitat presently exists in the Umatilla River basin; water quality will be protected; and no threatened or endangered species will be affected. A finding is included that there is no practicable alternative to locating the outfall structure in the floodplain.

FOR FURTHER INFORMATION CONTACT: Anthony R. Morrell, Environmental Manager, Bonneville Power Administration, P.O. Box 3621—SJ, Portland, Oregon 97208, telephone (503) 230–5136.

SUPPLEMENTARY INFORMATION: In order to partially mitigate adverse impacts to anadromous fish from Columbia River hydroelectric development, BPA proposes to fund construction and operation of an anadromous fish

hatchery in Morrow County, Oregon. The hatchery would be located at either of two adjacent sites on Federal land approximately 14 miles downstream of McNary Dam on the banks of the Columbia River. BPA's funding of construction and operation of the hatchery is consistent with the goals of the Pacific Northwest Electric Power Planning and Conservation Act and with the Northwest Power Planning Council's (NWPPC) 1984 Columbia River Basin Fish and Wildlife Program (EA, pages 1–5).

BPA has prepared an EA to analyze the environmental effects resulting from construction and operation of an anadromous fish hatchery in north central Oregon (see EA, pages 21–43). Alternatives that were evaluated in the EA are: (1) A downstream site location; (2) a preferred upstream site location; (3) a no-expansion hatchery facility at either of the two proposed sites; and (4) an expanded hatchery facility at either of the two possible sites. The specific site and ultimate capacity of the hatchery is subject to the recommendations of the NWPPC and are a function of the numbers and species of fish ultimately desired as a result of a future hatchery master planning process. To assure flexibility in planning and to assure that BPA could implement a variety of hatchery capacities and species mixes, the alternative sites and alternative capacities at these sites represent the full range of possible alternatives for the hatchery proposal.

None of the alternative sites or hatchery capacities will significantly affect the quality of the human environment:

1. Competition with and predation of other fish and aquatic species will not be significant because there is an abundance of available habitat. Also, the hatchery program (i.e., amounts and timing of fish releases) can be changed to reduce possible interspecific competition. Anadromous fish produced by this hatchery would fill a niche previously left vacant. Historically, the Umatilla River system supported much larger summer steelhead populations than the anticipated 5400 returning adults which would be realized by this project. The Umatilla basin also supported spring and fall chinook salmon runs which have not yet been reestablished. In the past, land and water use practices depleted and blocked passage to upstream anadromous fish spawning and rearing habitat. Concerned agencies have cooperated to improve and open access to this habitat. Standard hatchery management and operational procedures will include testing and treatment programs to minimize the introduction of fish diseases to the Umatilla River system from the hatchery releases. (See EA, pages 24–30.)

2. Suspended solids or nutrient loading to the Columbia River following treatment in settling ponds will meet Oregon Department of Environmental Quality requirements on effluent limitations to maintain good water quality. Accumulated wastes from the hatchery raceways will be flushed into settling ponds for a minimum of 2 hours of retention time. The settling pond wastes which do not biologically degrade will be removed every 5–10 years and either used locally as a fertilizer or placed in a certified landfill. A National Pollutant Discharge Elimination System permit will be obtained from the Oregon Department of Environmental Quality and water quality requirements of the permit will be met. (See EA, pages 33–37.)

A localized increase in Columbia River turbidity may result from ground excavation and placement of no more than 10 cubic yards of riprap around the base of the effluent outfall structure. This contruction is estimated to last up to 2 weeks. Turbidity created by construction activities will be regulated by restrictions of the Corps of Engineers' (COE) section 404 permit and BPA contract stipulations to not exceed State or local water quality standards.

Septic tanks and drainfields to handle sewage from the hatchery building and associated residences will be designed and installed to protect groundwater quality according to local ordinances. The quantity of groundwater available at the proposed site is adequate for hatchery operation and this hatchery's well operated in conjunction with the Irrigon Hatchery wells will not impose a measurable drawdown of neighboring groundwater wells. (See EA, pages 37–38.)

3. Impacts to bald eagles and peregrine falcons aren't significant because there are no desirable perching or foraging areas on either site or within 3000 feet of either site. BPA has made a finding of no effect on the bald eagle and peregrine falcon in a Biological Assessment and supplemental letter which are included as appendices of the EA. The U.S. Fish and Wildlife Service has concurred with this finding for both site alternatives and both the expansion and the no-expansion alternatives. No other endangered species are known to occur in the project area.

4. The proposed hatchery facilities are not located in a floodplain, wetland, or on prime or unique agricultural land. The lower section of the wastewater outfall line will be located in the 100-year floodplain. DOE has determined that there is no practicable alternative to locating the outfall structure in the floodplain and that the proposed action includes all practicable measures to minimize harm to or within the floodplain. The proposed outfall structure will be designed and built to withstand peak Columbia River flows. The presence of the outfall structure will not alter the floodplain's physical characteristics. No adverse impacts of floods on human safety, health, and welfare will occur due to the project because the channel discharge capacity will not be changed. (See EA, page 32–33.)

5. Construction and operation of the hatchery facilities would use only 5–7 acres (the upper limit for an expanded facility, and the lower limit for no expansion) of previously disturbed patches of shrub and herbaceous vegetation. There are no trees, wetlands, or riparian vegetation on either site. (See EA, page 24.)

6. Hatchery development at the upstream site would be consistent with Morrow County's Comprehensive Plan and therefore has been designated as BPA's preferred site alternative. Hatchery development at the downstream site would be a land use consistent with the Corps of Engineers' John Day Lock and Dam Master Plan and has been zoned for industrial use by the country. The EA has been coordinated with State of Oregon agencies, Morrow County Commissioners, and the Oregon State Clearinghouse review process. (See EA, pages 21–22.)

The proposed hatchery will increase industrial traffic use and possibly alter traffic patterns on county roads. Hatchery trucking operations will be combined with those of the Irrigon Hatchery, when possible, to reduce these effects. Also, BPA and the hatchery management will coordinate with the country Public Works Department to minimize potential traffic impacts. (See EA, page 22–23.)

7. Consultations with the Oregon State Historic Preservation Office (SHPO); the Confederated Tribes of the Umatilla Indian Reservation; and the Corps of Engineers, Portland and Walla Walla Districts, have revealed that there are no archeological, historical, or unique cultural resources listed for either site nor are there any identified religious and/or ceremonial sites within the project area. However, archeological sites potentially eligible for listing on the

National Register of Historic Places were known to occur. BPA, after undertaking extensive subsurface testing of both sites, has determined that these sites, in fact, are not eligible for listing on the National Register and that additional testing is not necessary. The Oregon SHPO has concurred with this determination. (See EA, pages 41–42.)

8. BPA evaluated the proposed action with respect to current legislation affecting Federal projects and found it to comply with those laws and regulations (see the EA, pages 21–43). There will be no effect on: (a) Special recreational areas such as Wild and Scenic Rivers, National Trails, etc. (EA, page 23); (b) air quality (EA, pages 38–39); (c) noise levels (EA, pages 39–40); and (d) solid and hazardous waste disposal (EA, pages 40–41).

Related documents

Boyce, R. R. 1986. A Comprehensive Plan for Rehabilitation of Anadromous Fish Stocks in the Umatilla River Basin. Oregon Department of Fish and Wildlife. Prepared for Bonneville Power Administration.

Sams, R.E. 1985. Umatilla River Summer Steelhead Hatchery Phase I Completion Report. Oregon Department of Fish and Wildlife. Prepared for Bonneville Power Administration.

Public Availability

The EA was distributed for public review to landowners in the area and governmental agencies involved with the project. No substantive comments were received at that time. Copies of the finding will also be distributed to those landowners and governmental agencies that received the EA.

Determination

Based on the information in the EA, the Department of Energy determines that none of the alternative sites or capacities addressed in the EA for the Umatilla Fish Hatchery proposal is a major Federal action significantly affecting the quality of the human environment. The Department of Energy also determines that there are no practicable alternatives to locating the hatchery's outfall structure in the floodplain and that the proposed action includes all practicable measures to minimize harm to or within the floodplain. Therefore, an environmental impact statement will not be prepared.

Issued in Washington, DC, on April 20, 1987.

Grover A. Smithwick,

Acting Assistant Secretary Environment, Safety and Health.

[FR Doc. 87–9741 Filed 4–29–87 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: High Energy Physics Advisory Panel (HEPAP).

Date and time:

Thursday, May 14, 1987, 9:00 am—6:00 pm

Friday, May 15, 1987, 9:00 am—4:00 pm

Place: Stanford Linear Accelerator Center, Orange Room, 2575 Sand Hill Road, Menlo Park, CA 94025.

Contact: Dr. P. K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER–221:GTN, Washington, DC 20545. Telephone: 301/353–4829.

Purpose of panel: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative agenda:

Thursday, May 14, 1987

—Discussion of the National Science Foundation Elementary Particle Physics Program FY 1987 Budget and Status of the FY 1988 Presidential Budget Request to Congress
—Discussion of the Department of Energy High Energy Physics Program FY 1987 Budget and Status of the FY 1988 Presidential Budget Request to Congress
—Status of Superconducting Super Collider (SSC)
—Discussion of New High Critical Temperature Superconductors and their Implications for the High Energy Physics Program
—HEPAP Review of the Stanford Linear Accelerator Center, High Energy Physics Program
—Public Comment (10 minute rule)

Friday, May 15, 1987

—Status Report on Tevatron Collider Operations at Fermilab
—Status Report on the L3 Detector at CERN
—Discussion of Subpanel Study of Present and Future Modes of Experimental Research in High Energy Physics
—Further Discussion of Foregoing Items
—Public Comment (10 minute rule)

Public participation: The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 21, 1987.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 87–9744 Filed 4–29–87; 8:45 am]

BILLING CODE 6450–01–M

Magnetic Fusion Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Magnetic Fusion Advisory Committee.

Date and Time:

Tuesday, May 19, 1987, 8:30 am–5:00 pm

Wednesday, May 20, 1987, 9:00 am–12:30 pm

Location: Princeton Plasma Physics Laboratory, Melvin B. Gottlieb Auditorium, Laboratory Office Building, Princeton University, James Forrestal Campus, U.S. Highway #1 North, Princeton, New Jersey 08540.

Contact: Thomas G. Finn, Office of Fusion Energy, Office of Energy Research ER–50.2, U.S. Department of Energy, Mail Stop J–204, Washington, DC 20545, Phone: (301) 353–4941.

Purpose of the Committee

To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities, and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program.

MFAC Agenda Outline

Tuesday, May 19, 1987

1. 8:30 a.m. Welcome
2. Status of Program—J. Clarke
3. MFAC Panel 17 Interim Report—D. Baldwin
4. ESECOM Report—J. Holdren

(Lunch)

5. Japanese Fusion Program Plan—Japanese Representative
6. EC Fusion Program Plan—EC Representative
7. Soviet Fusion Program—R. Davidson
8. Discussion of MFAC Task on Long-Term Technology Development—C. Baker, M. Gottlieb, K. Matson

(Public comments)

(Adjourn (5:30 p.m.)

Wednesday, May 20, 1987

1. 8:30 a.m. ICF Panel Report (NAS)—W. Happer
2. Discussion of Further MFAC Action on Long-Term Technology Development Task
3. Status of TFTR, CIT, PBX—D. Meade, J. Schmidt, K. Bol

(Public comments)

(Adjourn 12:30 p.m.)

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Thomas G. Finn at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes

Available for public review and copying approximately 30 days following the meeting at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 24, 1987.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 87-9767 Filed 4-29-87; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA C&E-87-47; OFP Case Nos. 56290-9367-20, 21, 22-24]

Powerplant and Industrial Fuel Use; Acceptance of Petition for Exemption and Availability of Certification by Mobil Oil Corp.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of acceptance.

SUMMARY: On April 1, 1987, Mobil Oil Corporation (Mobil or petitioner) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) for a proposed gas-fired unit to be built at Mobil's refinery in Paulsboro, New Jersey.

Title II of the Act prohibits the use of petroleum or natural gas as a primary energy source in a new powerplant and prohibits the construction of any such facility without the capability to use an alternate fuel as a primary energy source. The exemption petition was based on lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. Final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules setting forth criteria and procedures for petitioning for this type exemption are found at 10 CFR 503.32.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATE: Written comments are due on or before June 15, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Ave, SW., Washington, DC 20585.

Docket No. ERA C&E-87-47 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Frank Duchaine, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-093, Washington, DC 20585, Telephone (202) 586-8233

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 586-6947

SUPPLEMENTARY INFORMATION: The proposed facility will be a 158 megawatt gas-fired combined cycle unit consisting of three combustion turbines and three heat recovery steam generators.

Over 50 percent of the electricity generated will be sold to Atlantic City Electric Company and the steam will be used for Mobil's refinery processes.

Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. To qualify, the petitioner, pursuant to 10 CFR 503.32(a), must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of

using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under § 503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of the regulations; and

(5) Alternate sites not available, as required under § 503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.32(b) (and in addition to the certifications discussed above), the petitioner has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.;* and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of: (1) An Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on April 22, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-9745 Filed 4-29-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL87-33-000]

California Department of Fish and Game v. Joseph M. Keating; Complaint

April 24, 1987.

Take notice that on February 9, 1987, the California Department of Fish and Game (Department) filed with the Commission pursuant to § 385.206 of the Commission's regulations (Rule 206) a complaint against Joseph M. Keating (Keating). Keating is the licensee for the Sayles Flat hydroelectric project, FERC No. 3195, located on the South Fork of the American River in Eldorado County, California. In its complaint, the Department alleges that Keating has violated provisions of the license for Project No. 3195.

The Department states that after commencing construction of the Sayles Flat project during August 1986, Keating completely dewatered approximately 150 yards of the river to facilitate construction of a dam. The Department states that on November 25, 1986, and January 8, 1987, its personnel observed the dewatered condition of the river at the project site. The Department also states that on December 22, 1986, and January 5, 1987, Mr. Bob Jesson of the United States Forest Service observed that the river was dewatered at the project site.

The Department further states that the dewatered portion of the river contains gravels that are critical to spawning of brown trout. Because brown trout typically spawn on those gravels between October 1 and November 15 of the year, the Department contends that Keating's dewatering of the river killed brown trout eggs. The Department states that by dewatering the river, Keating also destroyed the aquatic habitat and killed all aquatic life in the affected portion of the river.

The Department asserts that by dewatering the river, Keating violated Article 37 of the license for Project No. 3195, which requires the licensee to "discharge from the Sayles Flat diversion structure on the South Fork of the American River an interim continuous minimum flow of 5 cubic feet per second or the inflow into the reservoir, whichever is less, for the purpose of protecting fish and wildlife resources." The Department requests that the Commission (1) take enforcement action to require Keating to comply with the terms of the license for Project No. 3195, (2) impose civil penalties for license violations pursuant to the Commission's powers under sections 31 and 314 of the Federal Power Act, as amended by the Electric Consumers Protection Act of 1986, and (3) grant such other and further relief as may be appropriate.

On March 9, 1987, Keating filed with the Commission an answer to the Department's complaint. In the answer, Keating moves that the Commission dismiss the complaint, denies that he has violated the terms of his license, states that no civil penalties are appropriate, alleges that the provisions of Article 37 do not apply during construction of the project's diversion structure itself, and contends that at all times he has cooperated with the personnel of the Commission's San Francisco Regional Office who have supervised construction of the project.

Any person desiring to protest or to be heard on this complaint should file a protest or motion to intervene in accordance with Rule 211 or 214, respectively, of the Commission's Rules of Practice and Procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Motions to intervene or protests should be filed not later than 30 days following publication of this notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice to intervene in accordance with Rule 214. Copies of the complaint and answer filed in this proceeding are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-9821 Filed 4-29-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-120-003]

Gas Gathering Corp.; Compliance Filing

April 24, 1987.

Take notice that on April 21, 1987, Gas Gathering Corporation (GGC) tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Third Revised Sheet Nos. 27 and 28
Second Revised Sheet Nos. 29-35
First Revised Sheet No. 35-A
Original Sheet No. 35-B

GGC states these sheets are filed in compliance with the Commission's order which issued April 3, 1987 in this proceeding requiring GGC to file certain

revisions to its tariff sheets which follow the Commission's orders issued in *El Paso Natural Gas Company*, 35 FERC ¶ 61,440 (1986) and *Northern Natural Gas Company*, 37 FERC ¶ 61,272 (1986).

GGC requests a waiver of § 154.22 of the Commission's regulations and any other applicable regulations so as to permit the tariff sheets to become effective on April 4, 1987.

GGC has mailed copies of this filing to those parties served with GGC's March 3, 1987 filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, 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 May 1, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-9822 Filed 4-29-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. IN87-3-000]

Fred E. Long et al.; Proposed Civil Penalty

April 22, 1987.

Pursuant to section 504(b)(6)(E) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3414(b)(6)(E) (1982), the Commission notifies Fred E. Long, Nue-Wells Pipeline Company, Southern Gas Pipeline Company and Petroleum Management, Inc., that the Commission proposes to assess civil penalties for knowing violations of section 504(a) of the NGPA. Those violations arise from certain sales of natural gas dedicated to the interstate market. The sales occurred from 1978 to at least 1986. The lands from which the gas was provided are located in Jim Wells County and Nueces County, Texas. The amount of the civil penalties that may be assessed shall be established by a future order of the Commission, but in no event shall the amount be greater than the maximum permitted under section 504(b)(6) of the NGPA.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-9823 Filed 4-29-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-58-000]

Pacific Gas Transmission Co.; Tariff Filing

April 24, 1987.

Take notice that on April 21, 1987, Pacific Gas Transmission Company (PGT) tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

First Revised Sheet No. 18
First Revised Sheet No. 19
Third Revised Sheet No. 20
Third Revised Sheet No. 21
Second Revised Sheet No. 22
First Revised Sheet No. 23A
First Revised Sheet No. 24
Third Revised Sheet No. 26
Second Revised Sheet No. 28
Third Revised Sheet No. 29
Third Revised Sheet No. 30
First Revised Sheet No. 31E
First Revised Sheet No. 63

PGT states that the above-referenced tariff sheets are filed pursuant to its Rate Schedule T-2 by which it provides transportation to Pacific Interstate Transmission Company (PITCO). Specifically, PGT is restating the allocation factor for costs associated with use of common facilities since such change is now known and measurable. Due to the expectation of use by PITCO of its full certificated capacity of 300,000 Mcf/d, an amendment to the allocation factor is required. PGT states that PITCO agrees to the increased allocation of costs.

PGT has sent copies of this filing to its affected customer, jurisdictional customers, and applicable state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 1, 1987. 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 inspections.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-9824 Filed 4-29-87 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ES87-23-000, et al.]

Electic Rate and Corporate Regulation Filings; Alamito Co. et al.

April 22, 1987.

Take notice that the following filings have been made with the Commission:

1. Alamito Co.

[Docket No. ES87-23-000]

Take notice that, pursuant to this Commission's order in Docket No. EL86-34-000 and EL86-36-000 (38 FERC ¶ 61,241), on April 13, 1987, Alamito Company ("Alamito") filed an application pursuant to section 204 of the Federal Power Act, seeking an order authorizing Alamito to assume a liability with respect to $150 million principal amount of 11% Senior Subordinated Second Mortgage Notes which were issued by Osceola Energy, Inc., ("Osceola") on June 4, 1986, prior to the merger of Alamito into Osceola and which were redeemed in full on December 31, 1986.

Comment date: May 20, 1987, in accordaance with Standard Paragraph E at the end of this notice.

2. El Paso Electric Co.

[Docket No. ES87-24-000]

Take notice that on April 15, 1987, El Paso Electric Company filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to section 204 of the Federal Power Act (i) to guarantee up to $17,500,000 principal amount of long-term variable rates promissory notes to be issued by an employee stock ownership plan and trust sponsored by the Company (the "ESOP"), such promissory notes to be issued and sold by the ESOP in a private placement to qualified institutional lenders in June 1987, (ii) to assume obligation to purchase such notes under certain circumstances, and (iii) to assume a reimbursement obligation with respect to amounts which may be advanced from time to time under a bank letter of credit to be issued to support the payment of such notes, all as described in the application.

Comment date: May 14, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Idaho Power Co.

[Docket No. ER87-346-000]

Take notice that on April 15, 1987, Idaho Power Company (Idaho) tendered for filing the remaining portion of Docket No. ER87-346-000, concerning an agreement between Idaho and Utah Power Company (Utah) for Interconnection and Transmission Service.

Comment date: May 6, 1987, in accordance wth Standard Paragraph E at the end of this notice.

4. Northeast Utilities Service Co.

[Docket No. ER87-379-000]

Take notice that on April 13, 1987, Northeast Utilities Service Company (NU) tendered for filing Notices of Termination in the following FERC Rate Schedules:

FERC Rate Schedule Nos. CL&P 347, WMECO 280
FERC Rate Schedule Nos. CL&P 339, WMECO 274
FERC Rate Schedule Nos. CL&P 342, WMECO 275
FERC Rate Schedule Nos. CL&P 174, WMECO 147
FERC Rate Schedule Nos. CL&P 328
FERC Rate Schedule Nos. CL&P 338
FERC Rate Schedule Nos. CL&P 348

Comment date: May 6, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determinig 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. 87-9817 Filed 4-29-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-287-000 et al.]

Mid Louisiana Gas Co. et al.; Natural Gas Certificate Filings

Take notice that the followings filings have been made with the Commission:

1. Mid Louisiana Gas Co.

[Docket No. CP87-287-000]

April 15, 1987.

Take notice that on April 14, 1987, Mid Louisiana Gas Company (Mid-La), P.O. Box 2511, Houston, Texas 77252, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authority to transport natural gas for the Manville Sales Corporation (Manville), under Mid-La's blanket certificate issued in Docket No. CP86-214-000 pursuant to section 7 of the NGA, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Mid-La proposes to transport up to 5,000 MMBtu of natural gas per day for Manville on an interruptible basis. The gas would be transported from the tailgate of the Celeron Gas Processing Plant located in Irene Field, East Baton Rouge Parish, Louisiana, to an existing interconnection between Mid-La's and Manville's facilities in Natchez, Adams County, Mississippi. Mid-La stated it would charge Manville a transportation rate of 16.58 cents per Mcf as currently found in Mid-La's Rate Schedule T-1 of its FERC Gas Tariff less 3 percent of the gas received for transportation for use by Mid-La. The transportation service is for a term of one year commencing on the date of initial deliveries and continuing year to year thereafter. Mid-La commenced the transportation service on January 1, 1987, pursuant to § 284.223(a)(1) of the Commission's Regulations, on a self-implementing basis for a 120-day period that will expire April 30, 1987.

Comment date: June 1, 1987, in accordance with Standard Paragraph G at the end of this notice.

2. United Gas Pipe Line Co.

[Docket No. CP87-279-000]

April 17, 1987.

Take notice that on April 6, 1987, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP87-279-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) to existing 2-inch Lakesville main line near Lakesville, Greene County, Mississippi, under the authorization issued in Docket No. CP87-430-000, pursuant to section 7 of the Natural Gas Act, all as more fully set in the request on file with the Commission and open to public inspection.

It is stated that United would construct and operate the sales tap to supply Entex, Inc. (Entex), with an estimated average 89 Mcf of natural gas per day for resale to a high school, presently under construction, and a proposed prison to be completed and in operation in 1988 for residential use under United's Rate Schedule DG-N. It is stated that Entex would reimburse United for all costs resulting from the tap installation. It is further stated that United is authorized to provide all of Entex's natural gas requirements for resale and distribution through Entex's distribution system serving the Laurel, Mississippi, service area and its adjoining environs pursuant to an effective service agreement dated November 17, 1971. United states that the new sales tap for Entex would not result in an increase in Entex's aggregate base requirements or contractual Maximum Daily Quantity (MDQ). The impact of United's proposal, as submitted, on Entex's Laurel service area is as follows:

MAXIMUM DAILY QUANTITY

1985 peak day sales	Proposed peak day sales	Proposed total peak day sales
24,856 Mcf	350 Mcf	25,206 Mcf

The proposed sale is within the total MDO limitation for Entex's Laurel service area, which is 31,529 Mcf, it is stated. United also states that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Comment date: June 1, 1987, in accordance with Standard Paragraph G at the end of this notice.

3. United Gas Pipe Line Co.

[Docket No. CP87-278-000]

April 17, 1987.

Take notice that on April 6, 1987, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a 1-inch sales tap to be located on United's existing 6-inch Merit Field line near Mendenhall, Simpson County, Mississippi, under the certificate issued in Docket No. CP82-430-000, pursuant to section 7 of the Natural Gas Act, all as more fully set in the request which is on file with the Commission and open to public inspection.

United states that the sales tap would enable it to supply 1 Mcf of natural gas per average day and 10 Mcf of natural gas per peak day to Willmut Gas & Oil Company for resale to the Joe Magee Poultry Farm for commercial use, under United's Rate Schedule G–N. United further states that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Comment date: June 1, 1987, in accordance with Standard Paragraph G at the end of this notice.

4. Southern Natural Gas Co.

[Docket No. CP87–277–000]

April 20, 1987.

Take notice that on April 3, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP87–277–000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Atlanta Gas Light Company (Atlanta), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern requests limited-term authorization to transport natural gas on behalf of Atlanta, acting as agent in arranging for the transportation of natural gas supplies for Integrated Products, Inc. (Integrated Products), pursuant to a March 11, 1987, transportation agreement between Atlanta and Southern.

Southern states that it has been advised that Integrated Products has entered into a gas sales contract to purchase natural gas from Entrade Corporation, SNG Trading Inc., and Consolidated Fuel Supply, Inc. (hereinafter collectively referred to as "Sellers'), in order to serve the natural gas requirements of its plants in Aragon and Rome, Georgia. In order to effectuate delivery of the gas purchased, Integrated Products has entered into an agreement with Atlanta dated December 5, 1986, wherein Atlanta has agreed to transport through its facilities the gas purchased by Integrated Products to its plants, and in conjunction therewith, to obtain as agent for Integrated Products the transportation of said gas through Southern's pipeline system, it is stated.

It is stated that subject to the receipt of all necessary governmental authorizations, Southern has agreed to transport on an interruptible basis up to 520 MMBtu of gas per day purchased by Integrated Products. Southern requests that the Commission issue a limited term certificate for a term expiring October 31, 1988.

The agreement provides that Atlanta would cause gas to be delivered to Southern for transportation at various existing delivery points on Southern's contiguous pipeline system as specified in Exhibit F Part I to the Application, it is stated. Southern would redeliver to Atlanta at the Cedartown—Rockmart Area Delivery Point and Rome Area Delivery Point as set forth in the Exhibit A to the Service Agreement between Southern and Atlanta dated September 23, 1969, an equivalent quantity of gas less 3.25 percent of such amount which shall be deemed to be used as compressor fuel and company-use gas (including system unaccounted-for gas losses); less any and all shrinkage, fuel or loss resulting from or consumed in the processing of gas; and less Atlanta's pro-rata share of any gas delivered for Atlanta's account which is lost or vented for any reason.

It is stated that the agreement provides that Atlanta would pay Southern each month for performing the transportation service rendered thereunder the following transportation rate:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to Atlanta under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to Atlanta do not exceed the daily contract demand of Atlanta, the transportation rate would be 48.2 cents per MMBtu; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to Atlanta under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to Atlanta exceed the daily contract demand of Atlanata, the transportation rate for the excess volumes would be 77.6 cents per MMBtu.

Southern states that the transporation arrangement would enable Integrated Products to diversify its natural gas supply sources and to obtain gas at competitive prices. In addition, Southern also states that it would obtain take-or-pay relief on gas that Integrated Products may obtain from its suppliers.

Comment date: May 11, 1987, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to 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 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 the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented to the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–9819 Filed 4–29–87; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 9494-001 et al.]

Surrender of Preliminary Permits; Wickersham Associates et al.

April 15, 1987.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Wickersham Associates

[Project No. 9494-001]

Take notice that Wickersham Associates, permittee for the proposed Howard Creek Project, has requested that its preliminary permit be terminated. The permit was issued on March 4, 1986, and would have expired February 28, 1989. The project would have been located on Howard Creek, a tributary to the Nooksack River, in Skagit County, Washington. The premittee cites that the proposed project is not economically feasible as the basis for the surrender request.

The permittee filed the request on March 30, 1987.

2. Caldwell Associates

[Project No. 9496-002]

Take notice that Caldwell Associates, permittee for the proposed Lower Deer Project, has requested that its preliminary permit be terminated. The permit was issued on March 12, 1986, and would have expired February 28, 1989. The project would have been located at the U.S. Bureau of Reclamation's Lake Lowell Deer Flat Lower Dam on the Deer Flat Low Line Canal, in Canyon County, Idaho. The premittee cites that the proposed project is not economically feasible as the basis for the surrender request.

The permittee filed the request on March 30, 1987.

Standard Paragraphs

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is 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. 87-9820 Filed 4-29-87; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 9310-000 et al.]

Hydroelectric Applications (City of Mt. Pleasant, UT et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: License (under 5 Mw).

b. Project No.: 9310-001.

c. Date Filed: April 17, 1986.

d. Applicant: City of Mt. Pleasant, UT.

e. Name of Project: Pleasant Creek Canyon Project.

f. Location: On Pleasant Creek in Sanpete County, Utah: Sections 1, 2, 3, T15S, R4E; Sections 4, 5, 6, 9, 10 T15S, R5E: SLB&M.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Amoir Deuel, Mayor, City of Mt. Pleasant, Mt. Pleasant, UT 84647, Tel: (801) 462-2456.

i. Comment Date: May 29, 1987.

j. Description of Project: The proposed project would be located on State of Utah and private lands, and consists of a series of 4 developments (ABC&D): *A*(1) A 35-foot-long, 6-foot-high concrete diversion dam at elevation 7,680 feet m.s.l.; and (2) a Sulfur Springs concrete diversion structure also at elevation 7,680 feet m.s.l.; (3) a wye connecting both diversions to a 6,000-foot-long, 16-inch-diameter steel penstock; (4) an upper powerhouse with an installed capacity of 350-kW under a net head of 347 feet; (5) a tailrace to Pleasant Creek at elevation 7,240 feet m.s.l.; *B*(6) a 36-foot-long, 6-foot-high concrete diversion dam at elevation 7,240 feet m.s.l.; (7) a 5,950-foot-long, 20-inch-diameter steel penstock; (8) a lower powerhouse with an installed capacity of 425 kW under a net head of 237 feet; (9) a tailrace to Pleasant Creek at elevation 6,910 feet m.s.l.; *C*(10) a 36-foot-long, 8-foot-high concrete diversion dam at elevation 6,900 feet m.s.l. on Pleasant Creek; and (11) another 36-foot-long, 8-foot-high diversion dam on Coal Fork Tributary, also at elevation 6,900 feet m.s.l.; (12) an 1,800-foot-long, 16-inch-diameter steel pipe from Coal Fork Dam connecting to a 13,800-foot-long, 24-inch-diameter penstock from Pleasant Creek dam; (13) a lower "debris basin" powerhouse with an installed capacity of 1,250 kW under a net head of 410 feet; (14) a tailrace to Pleasant Creek at elevation 6,260 feet m.s.l.; *D*(15) a diversion weir at elevation 6,260 feet m.s.l.; (16) a 12,120-foot-long, 24-inch-diameter PVC and iron pipeline/penstock; (17) a lower "pressure reducing station" powerhouse with an installed capacity of 600 kW under a net head of 393 feet; (18) a connection back to the pipeline at elevation 5,839 m.s.l.; (19) approximately 5.5 miles of 2.4-kV and 7.2-kV transmission lines; and (20) appurtenant facilities. The total powerplant capacities would be 2,625 kW, and the Applicant estimates that the average annual energy output would be 10,510,000 kWh.

k. Purpose of Project: Project energy would be utilized by the Applicant.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

2 a. Type of Application: Preliminary Permit.

b. Project No.: 10215-000.

c. Date Filed: December 30, 1986.

d. Applicant: Skykomish River Hydro.

e. Name of Project: Fourth of July Creek Project.

f. Location: In Snoqualmie-Mt. Baker National Forest, on Fourth of July Creek, Snohomish County, Washington. Township 26N and Range 11E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Lawrence J. McMurtrey, 12122-196th NE., Redmond, WA 98052, (206) 885-3986.

i. Comment Date: May 29, 1987.

j. Description of Project: The proposed project would consist of: (1) A diversion structure with an inlet elevation of 2,360 feet msl; (2) a penstock 7,500 feet long and 30 inches in diameter leading to; (3) a powerhouse at elevation 1,600 feet msl containing a single turbine/generator unit with a capacity of 1,696 kW operating at 760 feet of hydraulic head; and (4) a 7-mile-long, 115-kV transmission line. The applicant estimates the average annual energy production to be 7.43 GWh. The approximate cost of the studies under the permit would be $40,000.

k. Purpose of Project: Applicant proposes to sell the power generated at the proposed facility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

3 a. Type of Application: Preliminary Permit.

b. Project No.: 10241-000.

c. Date Filed: January 12, 1987.

d. Applicant: Warm Creek Hydroelectric Company.

e. Name of Project: Gunnison-Fayette Canal Diversion Project.

f. Location: On the Sevier River, near Gunnison, in Sanpete County, Utah.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. Jordan Walker, Warm Creek Hydroelectric Company,

P.O. Box N, Manti, UT 84642, (801) 835–0202.

i. Comment Date: May 29, 1987.

j. Description of Project: The proposed project would consist of: (1) An existing 19-foot-high, concrete diversion dam owned by the Gunnison-Fayette Canal Company; (2) a 5-foot-diameter, 5-foot-long penstock; (3) a powerhouse containing two turbine-generator units with a combined rated capacity of 200 kW under a head of 18 feet and a design flow of 150 cfs per unit, and producing an estimated annual generation of 876,000 kWh; and (4) a 300-foot-long, 12.5-kV transmission line interconnecting the project to an existing Utah Power and Light Company line. The proposed project would be located in Section 18, Township 20 South, Range 7 East, SLB&M, Sanpete County, Utah.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

l. The applicant estimates that the cost of the work to be performed under this preliminary permit would be $5,000.

4 a. Type of Application: License (under 5 MW).

b. Project No.: 9375–001

c. Date Filed: March 24, 1986.

d. Applicant: Hardware Ranch Associates.

e. Name of Project: Blacksmith Fork Power Project.

f. Location: On Blacksmith Fork River in Cache County, Utah: Section 7, 8, T10N, R2E; Section 12, T10N, R1E: SLB&M.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. Michael J. Graham, P.O. Box N, Manti, UT 84642.

i. Comment Date: May 29, 1987.

j. Description of Project: The proposed project would be located in the Cache National Forest and would consist of: (1) An earthfill dam, 27 feet high and 125 feet long; (2) a reservoir of minimal pondage; (3) a steel penstock, 48 inches in diameter and 8,800 feet long, utilizing the dam outlet works; (4) a powerhouse with an installed capacity of 2,000 kW under a gross head of 200 feet; (5) a tailrace returning flow to the Blacksmith Fork River; (6) a 12.5-kV transmission line, 3,000 feet long; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 13,705,524 kWh.

k. Purpose of Project: Project energy would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

5 a. Type of Application: Major License (5MW or Less).

b. Project No.: 9620–000.

c. Date Filed: November 4, 1985.

d. Applicant: Panther Power Company.

e. Name of Project: Panther Creek Power Project.

f. Location: On Panther Creek near the town of Stevenson, Skamania County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. Erling T. Soli, 15 SE., 82nd Drive, Gladstone, OR 97027, (503) 657–1384.

i. Comment Date: June 1, 1987.

j. Description of Project: The proposed project would consist of: (1) A concrete gravity diversion dam approximately 10 feet high with a crest length of 80 feet; (2) a 0.6-acre impoundment area having a storage capacity of 2 acre-feet at an elevation of 608 feet msl; (3) a fishladder; (4) a bar screen intake (12 feet by 49 feet); (5) a steel pipeline 4,825 feet long and 6 feet in diameter leading to; (6) a surge tank 40 feet high and 36 feet in diameter; (7) a bifurcated penstock 425 feet long with 3.5 feet and 5.0 feet diameters leading to; (8) a powerhouse containing two turbine-generator units having a total installed capacity of 4,600 kW; and (9) a 2,200-foot-long, 12.5-kV transmission line. The applicant estimates the average annual energy production to be 22,780 MWh. The estimated total project cost is $7,808,200.

k. Purpose of Project: Applicant proposes to sell the power generated at the proposed facility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

6 a. Type of Application: Preliminary Permit.

b. Project No.: 10246–000.

c. Date Filed: January 12, 1987.

d. Applicant: West View Hydroelectric Company.

e. Name of Project: West View Canal Hydro Project.

f. Location: On the Sevier River, near Salina, in Sevier County, Utah.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. Jordan Walker, West View Hydroelectric Company, P.O. Box N, Manti, UT 84642, (801) 835–0202.

i. Comment Date: May 29, 1987.

j. Description of Project: The proposed project would consist of: (1) An existing 19-foot-high, concrete diversion dam owned by West View Canal Company; (2) a 5-foot-diameter, 5-foot-long penstock; (3) a powerhouse containing two turbine-generator units with a combined rated capacity of 200 kW under a head of 18 feet and a design flow of 150 cfs per unit, and producing an estimated annual generation of 876,000 kWh; and (4) a 300-foot-long, 12.5-kV transmission line interconnecting the project to an existing Utah Power and Light Company line. The proposed project would be located in Section 12, Township 21 South, Range 1 West, SLB&M, Sevier County, Utah.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

l. The applicant estimates the cost of the work to be performed under this preliminary permit would be $5,000.

7 a. Type of Application: Amendment of License.

b. Project No.: 3083–021.

c. Date Filed: October 1, 1986.

d. Applicant: Oklahoma Municipal Power Authority and KAMO Electric Cooperative, Inc.

e. Name of Project: Kaw.

f. Location: Kay County, Oklahoma.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. J.R. Moody, Jr., Executive Vice President, Benham-Holway Power Group, 5314 South Yale Avenue, Tulsa, OK 74135–7457, (918) 492–1600.

i. Comment Date: May 29, 1987.

j. Licensee proposes to: Change the project transmission facility from an 18.2-mile, 138-kV line leading from the powerhouse southeastward to connect with the KAMO transmission system in the vicinity of Fairfax, Oklahoma, to an 8.5-mile, 69-kV line leading from the powerhouse westward to connect with the Oklahoma Municipal Power Authority's transmission system in Ponca City, Oklahoma.

k. This notice also consists of the following standard paragraphs: B, C, and D2.

8 a. Type of Application: Amendment of License.

b. Project No.: P–3820–002.

c. Date Filed: February 2, 1987.

d. Applicant: General Electric Company.

e. Name of Project: Somersworth.

f. Location: On the Salmon Falls River in Somersworth County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. William G. Gingrich, General Electric Company, 130 Main Street, Somersworth, NH 03878, (603) 692–2100.

i. Comment Date: May 29, 1987.

j. Description of Project: The project as licensed consists of: (1) A stone gravity structure known as the Stone Dam, having a length of 400 feet and a height of 16.5 feet; (2) three intake gates

diverting water to; (3) a power canal having a length of approximately 1,600 feet and leading to; (4) a penstock having a length of approximately 600 feet; (5) an existing powerhouse to be rehabilitated to contain a new turbine-generator having a total rated capacity of 1,500 kW; and (6) appurtenant facilities. The estimated average annual generation is 7,000,000 kWh.

The applicnt proposes to amend the license by increasing the total installed capacity from 1,500 kW to 2,220 kW by adding one turbine/generator unit with a rated capacity of 720 kW and increasing the average annual generation from 7,000,000 kWh to 8,486,000 kWh. Project energy will be sold to the Public Service Company of New Hampshire.

k. This notice also consists of the following standard paragraphs: B, C, and D1.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 9512–000.

c. Date Filed: September 30, 1985.

d. Applicant: City of Logan, Utah.

e. Name of Project: Hydro I Water Power Project.

f. Location: On Logan River in Cache County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Vaun Bethers, Manager, Logan City Light and Power, 61 West First North, Logan, Utah 84321.

i. Comment Date: May 29, 1987.

j. Competing Application: Project No. 9172–000. Date Filed: May 6, 1985.

k. Description of Project: The proposed project would utilize the existing Logan First Dam, owned by the Utah State University, and would consist of: (1) A concrete buttress dam, about 30 feet high and 216 feet long; (2) a reservoir having minimal storage; (3) an intake structure located upstream of the right dam abutment; (4) a 48-inch-diameter steel or concrete penstock, about 475 feet long; (5) a powerhouse with an installed capacity of 435 kW under a head 32 feet; (6) a tailrace returning flow to the Logan River; (7) a transmission line about ½ mile long; and (8) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,425,000 kWh. The Applicant estimates that the cost of the studies under the permit would be $40,000.

l. Purpose of Project: Project energy would be utilized by the Applicant.

m. This notice also consists of the following standard paragraphs: A8, B, C, and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 9547–000.

c. Date Filed: October 18, 1985.

d. Applicant: Utah State University.

e. Name of Project: Logan First Dam Water Power Project.

f. Location: On Logan River in Cache County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Evan N. Stevenson, Vice President for Business, Utah State University, Logan, Utah 84322–1146.

i. Comment Date: May 29, 1987.

j. Competing Application: Project No. 9172–000. Date Filed: May 6, 1985.

k. Description of Project: The proposed project would utilize the existing Logan First Dam, owned by the Applicant, and would consist of: (1) A concrete dam, 30 feet high and 200 feet long; (2) a reservoir having minimal storage; (3) 30-inch-diameter penstocks, estimated at 60 and 800 feet long; (4) two powerhouses with a total installed capacity of 5,000 kW under a maximum head of 60 feet; (5) two tailraces returning flow to the Logan River; (6) connections to a nearby transmission line; and (7) appurtenant facilities. The applicant estimates that the average annual energy output would be 5,600,000 kWh. The Applicant estimates that the cost of the studies under the preliminary permit would be $50,000.

l. Purpose of Project: Project energy would be utilized by the Applicant.

m. This notice also consists of the following standard paragraphs: A8, B, C, and D2.

11 a. Type of Application: Exemption (Conduit).

b. Project No.: 9970–000.

c. Date Filed: April 14, 1986.

d. Applicant: Pennsylvania Gas and Water Company.

e. Name of Project: Springbrook/Nesbitt Treatment Plant.

f. Location: On Spring Brook in the Townships of Springbrook and Pittston, Lackawanna and Luzerne Counties, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. Joseph Lubinski, Pennsylvania Gas and Water Company, Wilkes-Barre Center Building, 39 Public Square, Wilkes-Barre, PA 18711, (717) 829–8778).

i. Comment Date: May 29, 1987.

j. Description of Project: The proposed project would consist of: (1) A proposed 30-inch ductile iron raw water line 1,060 feet long; (2) a proposed 150-kW hydropower unit to be housed in the proposed Springbrook/Nesbitt water treatment plant; (3) 16-inch and 24-inch ductile iron facility drain lines; and (4) appurtenant facilities. The applicant estimates that the average annual energy production would be 860 MWh. The applicant proposes to use the energy in its water treatment plant and to sell any excess to Pennsylvania Power and Light Company.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

12 a. Type of Application: Conduit Exemption.

b. Project No.: 10256–000.

c. Date Filed: January 21, 1987.

d. Applicant: City of Tacoma Department of Public Utilities, Light Division.

e. Name of Project: Hood Street Reservoir.

f. Location: On the City of Tacoma's Department of Public Utilities municipal water system in Pierce County, Washington, near the town of Tacoma.

g. Filed Pursuant to: Energy Security Act of 1980 (16 U.S.C. 2705 and 2708).

h. Contact Person:

E.E. Coates, Director of Utilities, City of Tacoma, Department of Utilities Light Division, P.O. Box 11007, Tacoma, WA 98411

Ms. Deborah A. Howe, Environmental Planner, Ott Water Engineers, Inc., 12310 N.E. 8th Street, Bellevue, WA 98005, (206) 453–9039

i. Comment Date: May 29, 1987.

j. Description of Project: The proposed project would consist of: (1) A 48-inch-diameter, 120-foot-long penstock branching from the municipal water system pipeline; (2) a 32 foot by 48 foot concrete block powerhouse/pump station at elevation 267 feet m.s.l., housing a single generating unit with an installed capacity of 800 kW, with a net head of 280 feet and a hydraulic capacity of 45 cfs, producing an average annual energy output of 4.8 million kWh; (3) a tailrace discharging project flows into an existing municipal system pipeline, discharging flows into the Hood Street Reservoir; and (4) appurtenant facilities.

The project would be located on lands owned by the City of Tacoma.

k. Purpose of Project: Project power would be utilized by the City of Tacoma Department of Public Utilities.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

13 a. Type of Application: Declaration of Intention.

b. Project No.: EL87–7.

c. Date Filed: November 24, 1986.

d. Applicant: R.A. Rabe.

e. Name of Project: Rabe.

f. Location: Ditch Creek, Lemhi County, Idaho SE SE Section 8, T.25N, R21E.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. Contact Person: R.A. Rabe, Project Owner, 1801 Whitney, Idaho Falls, ID 83402.

i. Comment Date: June 1, 1987.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 10-inch-diameter 600-foot-long penstock; (2) a powerhouse containing one generating unit with capacity of 5 kW; and (3) appurtenant facilities. Applicant estimates the average annual generation would be 17,000 kWh.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

k. Purpose of Project: The proposed project would furnish electric power for domestic use on the owner's land.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

14 a. Type of Application: Amendment of License.

b. Project No.: 2730–012.

c. Date Filed: January 7, 1987.

d. Applicant: Pennsylvania Electric Company.

e. Name of Project: Deep Creek Project.

f. Location: On Deep Creek near the Village of Oakland, Garrett County, Maryland.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. William J. Madden, Jr., Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036, (202) 857–9800.

i. Comment Date: June 1, 1987.

j. Description of Project: The proposed amendment to Pennsylvania Electric Company's existing licensed Project No. 2370 would consist of authorization to issue boat dock permits in excess of the number for which the licensee is authorized in Article 35 of its license for the Deep Creek Project. The following boat dock permits have been requested: one common boat dock facility with 8 boat slips at the Cedarbrook Development; one common boat dock facility with 11 boat slips, one 2-family boat dock with 4 boat slips, and 3 individual boat docks at the Penn Cove Properties; one common boat dock facility with 15 slips at the Sandy Beach Properties; and several common facilities with a total of 16 boat slips at the Arrowhead Townhomes Development.

k. This notice also consists of the following standard paragraphs: B, C, and D2.

15 a. Type of Application: Amendment of License Application.

b. Project No.: 4720–006.

c. Date Filed: December 12, 1986.

d. Applicant: The City of Farmington, New Mexico.

e. Name of Project: Navajo Dam Hydro Project.

f. Location: On the San Juan River in San Juan and Rio Arriba Counties, New Mexico.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) through 825(r).

h. Contact Person: Mr. William C. Lewis, Director, Electric Utility System, City of Farmington, Farmington, NM 87401.

i. Comment Date: June 1, 1987.

j. Description of Project: An amendment of license application, pursuant to § 4.35 of the Commission's regulations, has been filed for the Navajo Dam Hydro Project as follows: The license for the project was issued October 15, 1985, and the transmission line currently included therein begins at the project site and terminates at Turley substation, a distance of 10.4 miles away. The licensee now proposes to by-pass Turley substation and extend the line 15.08 miles further for connection at Bergin substation on the north side of Bloomfield, New Mexico. The 10.4-mile-long, 115-kV transmission line described in the existing license will remain unchanged; the 15.08-mile-long, 115-kV transmission line additional segment would likewise be situated on a 100-foot-wide right-of-way corridor.

k. This notice also consists of the following standard paragraphs: B & C.

Standard Paragraphs

A3. Development Application

Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A5. Preliminary Permit

Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A.7 Preliminary Permit

Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit

Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies Under Permit

A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents

Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. Agency Comments

States, agencies established pursuant to Federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, Federal and State agencies excercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural and other relevant resources of the State in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. 825*l*(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be seat to the Applicant's representatives.

D2. Agency Comments

Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Agency Comments

The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: April 27, 1987.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87–9818 Filed 4–29–87; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[WH–FLR–3192–6]

State and Local Assistance; Grants for Municipal Wasterwater Treatment Works Construction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of allotment.

SUMMARY: This notice announces the State allotments of fiscal year (FY) 1987 funding for the municipal wastewater treatment works construction grants program. The construction grants program operates under authority of the Clean Water Act (the Act), Pub. L. 92–500, as amended.

On October 18, 1986, in Pub. L. 99–500, Congress appropriated and made

immediately available $1.2 billion for allotment to the States in FY 1987. At the time of this appropriation, section 205(c)(2) of the Act, as amended by Pub. L. 97–117, provided that sums appropriated through FY 1985 be allotted to the States in accordance with the table in section 205(c)(2). Although the construction grants program's authorization period had ended on October 1, 1985, in Pub. L. 99–500 Congress directed that the $1.2 billion made immediately available be allotted to the States according to the allotment formula that was in effect on October 1, 1984.

Through promulgation of this notice the requirements of the Act are fulfilled and the public is notified of the amounts made available to the States for grants for the construciton of municipal wastewater treatment works.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Adams, Program Management Branch, Municipal Construction Division, Office of Municipal Pollution Control, (202) 382–5858.

SUPPLEMENTARY INFORMTION: Public Law 99–500 appropriated and made immediately available $1.2 billion to fund the construction grants program in fiscal year (FY) 1987. Congress directed that the funds would be allotted to the States under section 205(c)(2) of the Clean Water Act (the Act). Congress stated in the conference report to Pub. L. 99–500, H.R. Rep. No. 977, 99th Cong., 2nd Sess. 18, that it expects to make an additional $1.2 billion of FY 1987 funds available following reauthorization of the construction grants program in amendments to the Act. The appropriations act also stiuplated that the FY 1987 funds shall not be limited to phases or segments of previously funded projects.

As directly by Congress, the $1.2 billion appropriated for FY 1987 are hereby allotted on the basis of the precentages listed in the table contained in section 205(c)(2) of the Act. The percentages in the table were applied to the $1.2 billion total to determine each State's share of the appropriation. The allotment percentages contained in section 205(c)(2) are included in the table that follows in the column titled "State Share" and the resulting dollar figures are found in the column titled "State Allotment."

STATE ALLOTMENTS FROM $1.2 BILLION FY 1987 APPROPRIATION

State	State share	State allotment
Alabama	0.011398	$13,678,000
Alaska	.006101	7,321,000
Arizona	.006885	8,262,000
Arkansas	.006668	8,002,000
California	.072901	87,481,000
Colorado	.008154	9,785,000
Connecticut	.012487	14,985,000
Delaware	.004965	5,958,000
Dist. of Columbia	.004965	5,958,000
Florida	.034407	41,289,000
Georgia	.017234	20,681,000
Hawaii	.007895	9,474,000
Idaho	.004965	5,958,000
Illinois	.046101	55,321,000
Indiana	.024566	29,479,000
Iowa	.013796	16,555,000
Kansas	.009201	11,041,000
Kentucky	.012973	15,568,000
Louisiana	.011205	13,446,000
Maine	.007788	9,346,000
Maryland	.024653	29,584,000
Massachusetts	.034608	41,530,000
Michigan	.043829	52,595,000
Minnesota	.018735	22,482,000
Mississippi	.009184	11,021,000
Missouri	.028257	33,909,000
Montana	.004965	5,958,000
Nebraska	.005214	6,257,000
Nevada	.004965	5,958,000
New Hampshire	.010186	12,223,000
New Jersey	.041654	49,985,000
New Mexico	.004965	5,958,000
New York	.113097	135,717,000
North Carolina	.018396	22,075,000
North Dakota	.004965	5,958,000
Ohio	.057383	68,860,000
Oklahoma	.008235	9,882,000
Oregon	.011515	13,818,000
Pennsylvania	.040377	48,453,000
Rhode Island	.006750	8,100,000
South Carolina	.010442	12,530,000
South Dakota	.004965	5,958,000
Tennessee	.014807	17,769,000
Texas	.038726	46,471,000
Utah	.005371	6,445,000
Vermont	.004965	5,958,000
Virginia	.020861	25,033,000
Washington	.017726	21,271,000
West Virginia	.015890	19,068,000
Wisconsin	.027557	33,069,000
Wyoming	.004965	5,958,000
Guam	.000662	794,000
Puerto Rico	.013295	15,954,000
Virgin Islands	.000531	637,000
American Samoa	.000915	1,098,000
Trust Territories of Pacific Isl	.001305	1,566,000
Northern Mariana Islands	.000425	510,000
Total	.999996	$1,200,000,000

Congress also stated that ". . . no unit of government shall receive less in 1987 than it received in 1985 under sections 205(g) and 205(j)" of the Act. The intent of Congress in this passage was to ensure that all States would have sufficient management and planning funds available in FY 1987 to allow current operations to be maintained, notwithstanding the lower FY 1987 appropriation level. Accordingly, each State may reserve 205(g) funds from currently available FY 1987 funds in an amount equivalent to four percent of its allotment of a $2.4 billion appropriation. Similarly, each State may reserve 205(j) funds from currently available FY 1987 funds in an amount equivalent to one percent of its allotment of a $2.4 billion appropriation.

These allotments are available for obligation until September 30, 1988. After that date, unobligated balances will be reallotted in accordance with the Act and EPA regulation 40 CFR 35.2010. Grants from the allotments may be awarded as of the date that advices of allowance are issued to the EPA Regional Administrators by the Comptroller of EPA.

Dated: April 21, 1987.

Lee M. Thomas,

Administrator.

[FR Doc. 87–9631 Filed 4–29–87; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3193–4]

Management Advisory Group to the Construction Grants Program; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a meeting of the Management Advisory Group to the Construction Grants Program (MAG) will be held at the Holiday Inn 1776 Resort, US 60 Bypass Road, Williamsburg, Virginia 23167, telephone (804) 220–1776. The meeting will begin at 9 a.m. on May 27, 1987 and end at about 1 p.m. on May 28, 1987.

The agenda will principally include meetings of the MAG Task Forces on (1) State Revolving Loan Funds and (2) Nonpoint Sources of Pollution. The agenda will also include briefings and discussions on other topics of current or future interest to MAG.

The meeting will be open to the public. Additional information on the meetings may be obtained from Ms. Edna Geter at the Environmental Protection Agency, WH–547, 401 M Street SW., Washington, DC 20460, telephone (202) 382–5859.

Dated: April 20, 1987.

Lawrence Jensen,

Assistant Administrator.

[FR Doc. 87–9770 Filed 4–29–87; 8:45 am]

BILLING CODE 6560–50–M

[AD–FRL–3193–7]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

ACTION: Notice of open meeting.

SUMMARY: A meeting of the National Air Pollution Control Techniques Advisory Committee will be held at the Sheraton Imperial Hotel and Towers, Royal Ballroom, I–40 Exit 282 at Page Road, Research Triangle Park, North Carolina

27709. The commercial telephone number is (919) 941–5050.

DATES: June 9 and 10, 1987.

FOR FURTHER INFORMATION CONTACT: All meetings are open to the public. Anyone wishing to make a presentation should contact Ms. Mary Jane Clark at the Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by June 1, 1987. The commercial telephone number is (919) 541–5571, and the FTS number is 629–5571.

SUPPLEMENTARY INFORMATION: The agenda for the meeting is as follows:

June 9 (Tuesday)—9:00 a.m.

Transfer, Storage, and Disposal Facilities (TSDF), Status Report to the Committee on Overall Porject and Waste Test Method (Resource Conservation and Recovery Act).

Volatile Organic Compound (VOC) Emissions from Air Strippers, Control Technology Document.

Equipment Leak Testing Protocol for VOC Emissions, Status Report to the Committee on Development Protocol.

Coal Preparation Plants, Review of Standards of Performance for New Stationary Sources (section 111 of the Clean Air Act).

Industrial Cooling Towers, Status Report to the Committee on Test Program for Chromium Emissions (section 112 of the Clear Air Act).

June 10 (Wednesday)—9:00 .am.

Continuation of June 9—as required.

The docket containing material relevant to coal preparation plants (A–87–08) is located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby-Gallery 1, 401 M Street, SW., Washington, DC 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

(Pub. L. 92–463).

Dated: April 27, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 87–9771 Filed 4–29–87; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3193–5]

Science Advisory Board Hazard Ranking System Review Subcommittee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a meeting of the Science Advisory Board's Hazard Ranking System Review Subcommittee will be held on May 19–20, 1987 at the U.S. Environmental Protection Agency, North Conference Area Room #1. The Conference Area is located on the Ground Floor, near the EPA Washington Information Center, Waterside Mall, 401 M Street, SW., Washington, DC. The meeting will begin at 8:30 a.m. Tuesday and adjourn no later than 5:00 p.m. Wednesday.

This meeting is not to be confused with the public meeting on the Hazard Ranking System (HRS) which the Office of Emergency and Remedial Response is holding May 7–8, 1987 (52 FR 11513 through 11517).

OEER is reviewing and may revise the HRS in the light of the Superfund Amendments and Reauthorization Act of 1986 (SARA). OERR has requested the Science Advisory Board review scientific issues relating to the HRS.

The purpose of this meeting is to begin the review of the HRS with briefings of the Subcommittee. The HRS is used by EPA to determine whether to place sites on the National Priorities List. The current HRS evaluates the relative potential of uncontrolled hazardous substances to cause human health or safety problems, or ecological or environmental damage, by taking into account "pathways" to human or environmental exposure in terms of numerical scores. After these background briefings the Subcommittee will develop its approach to and schedule for the review.

Copies of the documents provided to the Subcommittee will be placed in the Superfund docket. The Superfund Docket is located at EPA Headquarters, Waterside Mall Subbasement, 401 M Street, SW., Washington, DC 20460 and will be available for viewing by appointment only from 9:00 a.m. to 4:00 p.m. Monday through Friday excluding holidays. To obtain copies of the documents or make an appointment, contact Denise Sines at (202) 382–3046.

The meeting is open to the public; however, seating is very limited. Any member of the public wishing to attend, obtain further information, or submit written comments to the Subcommittee should notify Mrs. Kathleen Conway, Executive Secretary, or Mrs. Dorothy Clark, Staff Secretary, (A101–F) Science Advisory Board, by the close of business on Friday, May 15, 1987. The telephone number is (202) 382–2552.

Dated: April 22, 1987.

Terry E. Yosie,

Director, Science Advisory Board.

[FR Doc. 87–9772 Filed 4–29–87; 8:45 am]

BILLING CODE 6560–50–M

[OPP–36142; FRL–3193–8]

Pesticide Registration Standards; Availability for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of draft standard for comment.

SUMMARY: This notice announces the availability of a draft pesticide Registration Standard document for comment. The Agency has completed a review of the listed pesticide and is making available a document describing its regulatory conclusions and actions.

DATE: Written comments on the Registration Standard should be submitted on or before June 29, 1987.

ADDRESSES: Three copies of comments identified with the docket number listed with the Registration Standard should be submitted: By mail: Information Service Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

In person, deliver comments to: Room 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket will be available for public inspection in Room 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays

FOR FURTHER INFORMATION CONTACT: To request a copy of a Registration Standard, contact Frances Mann of the Information Services Section, in Room 236 at the address given above (703–557–3262). Requests should be submitted no later than June 1, 1987, to allow sufficient time for receipt before the close of the comment period.

For technical questions related to the Registration Standard, contact Lossi Rossi, at the phone number given.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency conducts a systematic review of pesticides to determine whether they meet the criteria for continued registration under section 3(c)(5) of the

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). That review culminates in the issuance of a Registration Standard, a document describing the Agency's regulatory conclusions and positions on the continued registrability of the pesticide. In accordance with 40 CFR 155.34(c), before issuing certain Registration Standards, the Agency makes the draft document available for public comment.

A draft Registration Standard for the following pesticide is now available:

Name of pesticide	Docket No.	Contact person
Aluminum tris (O-ethylphosphonate).	39148-24-8	Lois Rossi, Product Manager 21, (703-557-1900).

Copies of the Registration Standard may be obtained from the Agency at the address listed under **FOR FURTHER INFORMATION CONTACT.** Because of the length of the Standard and the limited number of copies available for distribution, only one copy can be provided by mail to any one individual or organization. The Registration Standard is also available for inspection and copying in EPA Regional offices at the addresses listed below after June 1, 1987.

List of EPA Regional Offices

Pesticides and Toxic Substances Branch, EPA—Region I, JFK Federal Building, Boston, MA 02203, Contact person: Gerald Levy
Pesticides and Toxic Substances Branch, EPA—Region II, Woodbridge Avenue, Edison, NJ 08837, Contact person: Ernest Regna
Toxics and Pesticides Branch, EPA—Region III, 6th and Walnut Sts., Philadelphia, PA 19106, Contact person: Larry Miller
Pesticides and Toxic Substances Branch, EPA—Region IV, 345 Courtland St., NE., Atlanta, GA 30365, Contact person: H. Kirk Lucius
Pesticides and Toxic Substances Branch, EPA—Region V, 230 South Dearborn St., Chicago, IL 60604, Contact person: Phyllis Reed
Pesticides and Toxic Substances Branch, EPA—Region VI, 1201 Elm St., Dallas, TX 75270, Contact person: Norman Dyer
Pesticides and Toxic Substances Branch, EPA—Region VII, 324 East 11th St., Kansas City, MO 64106, Contact person: Leo Alderman
Toxic Substances Branch, EPA—Region VIII, 1860 Lincoln St., Suite 900, Denver, CO 80295, Contact person: C. Alvin York
Pesticides and Toxics Branch, EPA—Region IX, 215 Fremont St., San Francisco, CA 94105, Contact person: Rich Baille
Pesticides and Toxic Substances Branch, EPA—Region X, 1200 6th Ave., Seattle, WA 98101, Contact person: Anita Frankel

Dated: April 20, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 87-9774 Filed 4-29-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket 86-286]

FCC Form 346 (Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator, or FM Translator Station); Revision

AGENCY: Federal Communications Commission (FCC).

ACTION: Notice of revision of form.

SUMMARY: This action gives notice of the revision of Section II, Legal Qualifications, Page 3, of FCC Form 346 to require ownership information only from low power television and television translator applicants for new stations as a consequence of the Commission's amendment of 47 CFR 73.3564 in *Report & Order*, MM Docket 86-286, FCC 87-44 (52 FR 7420-3/11/87).

EFFECTIVE DATE: June 15, 1987.

FOR FURTHER INFORMATION CONTACT: Keith A. Larson, Mass Media Bureau, FCC, telephone (202) 632-3894.

SUPPLEMENTARY INFORMATION: April 27, 1987.

Revised FCC Form 346

As a result of the Commission's Report and Order in MM Docket 86-286, 52 FR 7420 (1987), FCC Form 346, the application form used, among other things, for seeking authority to construct or make changes in a low power TV (LPTV) or TV translator station, has been revised. Section II, Legal Qualifications, Page 3 of the form has been amended to incorporate the following approved changes:

Section II—Legal Qualifications

1. Applicant is (check one of the following):

(a) ☐ An individual

For LPTV and TV translator applicants only, if the applicant is an individual, submit as Exhibit No. _____ the applicant's name, address, home and business telephone numbers (including area code) and the applicant's individual interest.

(b) ☐ A general partnership or ☐ A limited partnership

For LPTV and TV translator applicants only, if the applicant is a partnership, whether general or limited, submit as Exhibit No. _____ the names, addresses, home and business telephone numbers (including area code) of all general and limited partners (including silent partners), and the nature and percentage of the ownership interest of each partner.

(c) ☐ A corporation or ☐ An unincorporated association

For LPTV and TV translator applicants only, if the applicant is a corporation or an unincorporated association, submit as Exhibit No. _____ the names, addresses, home and business telephone numbers (including area code) of all officers, directors, and other members of the governing board of the corporation or association and the nature and the percentage of their ownership interests in the applicant (including stockholders with interests of 1% or greater).

(d) ☐ A Other

If the applicant is a legal entity other than an individual, partnership, corporation or unincorporated association, describe in Exhibit No. _____ the nature of the applicant.

2. For LPTV and TV translator applicants for new stations only, submit as Exhibit No. _____ a list of all other new applications filed during the same window period as this application in which the applicant or any principal of the applicant has any interest. Include the percentage of that interest for each listed application, as well as the other applicant's name (if different) and the channel number and location of the proposed station.

Note: No more than five (5) applications for new low power TV or TV translator stations may be filed during a single window period by any applicant or by any individual or entity having an interest of 1% or more in applications filed in the same window period. This limit does not apply to minor or major change applications.

Effective June 15, 1987, all previous editions of FCC Form 346 are cancelled. All LPTV or TV translator applications submitted on the obsolete forms will be returned to the applicant as defective and unacceptable for filing.

Revised FCC Form 346 (May 1987 edition) will be available on or after May 11, 1987 and can, thereupon, be obtained from the FCC's Operations Support Division, Services and Supply Branch, Room B-10, 1919 M Street, NW.,

Washington, DC 20554, telephone number (202) 632–7272.

For further information concerning the revised FCC Form 346, contact Keith A. Larson, Chief, Low Power Television Branch, Mass Media Bureau at telephone number (202) 632–3894.

Federal Communications Commission.

William J. Tricarico,

Secretary

[FR Doc. 87–9782 Filed 4–29–87; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1653]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceedings

April 16, 1987.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this public notice and published pursuant to 47 CFR 1.429(e). 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 must be filed May 15, 1987. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Establishment of a Spectrum Utilization Policy for the Fixed and Mobile Services' Use of Certain Bands Between 947 MHz and 40 GHz. (Gen. Docket No. 82–334)
Number of petitions received: 7

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (MM Docket No. 84–293, RM–4611)
Number of petitions received: 1

Subject: Subscription Video. (Gen. Docket No. 85–305)
Number of petitions received: 2

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Ponte Vedra Beach, Florida) (MM Docket No. 85–376, RM's 4988 & 5378)
Number of petitions received: 1

Subject: Separation of Costs of Regulated Telephone Service From Costs of Unregulated Activities. Amendment of Part 31, Uniform System of Accounts for Class A and Class B Telphone Companies To Provide for Nonregulated Activities and To Provide for Transactions Between Telephone Companies and Their Affiliates. (CC Docket No. 86–111)
Number of petitions received: 21

[FR Doc. 87–9787 Filed 4–29–87; 8:45 am]

BILING CODE 6712-01-M

[Gen. Docket No. 87–25; FCC 87–66]

Mass Media Services; Development of Recommendations to the Congress on the Desirability of the Compulsory Copyright License for Cable Retransmission of Broadcast Signals

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry (NOI).

SUMMARY: The NOI initiates an inquiry seeking information to help us evaluate the comparative abilities and disabilities of the compulsory license for cable retransmissions and to determine whether it or some alternative would better serve the public interest. We specifically invite interested parties to address any and all issues relevant to an assessment of institutional alternatives for governance of programming property rights. Our aim in this proceeding is to establish as complete a record as possible on these issues, and, if warranted, to forward that record to the Congress with recommendations for its consideration if amendment or abolition of the compulsory license for cable television is shown to better serve the public interest.

A related NOI/NPRM on syndicated exclusivity and associated matters also has been released by the Commission. (Gen. Docket 87–24, FCC 87–65).

DATES: Comments should be filed on or before June 22, 1987 and reply comments on or before August 6, 1987.

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

FOR FURTHER INFORMATION CONTACT: Kenneth Gordon (202) 653–5940.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's NOI, Gen. Docket No. 87–25, FCC 87–66, Adopted February 12, 1987, and released April 23, 1987.

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.

Summary of Notice of Inquiry

In 1976, Congress enacted a general revision of the Copyright Act that provided for a compulsory license authorizing cable systems to retransmit non-network broadcast programnming upon payment of a specified percentage of their revenues. Fees thus collected are to be distributed among the owners of the copyrighted programs used. License fees are adjusted and their disposition supervised by the Copyright Royalty Tribunal (CRT). In terms of its effect on achievement of Commission goals, the comparative efficacy of compulsory licensing depends importantly on, inter alia, (1) the effect of the compulsory license on competition among different program delivery systems, in particular, the extent to which competing delivery modes are advantaged or disadvantaged by the compulsory license in ways adverse to the public interest; (2) the effect of the compulsory license on the efficient supply of video programming, in particular, the effect of the absence of full copyright liability under the compulsory license on economic incentives for efficient levels of program production; (3) the CRT's effectiveness in assuring an appropriate disposition of royalties among competing program suppliers as well as in adjusting license fees in a timely and efficient manner; and (4) the expected performance of alternatives to compulsory licensing, which may change in ways that make alternatives relatively more attractive.

Under the compulsory licensing system, cable television systems are exempted from negotiating with copyright holders for the rights to retransmit non-network broadcast programming. The compulsory licensing scheme enables the cable television industry to obtain such programming easily for a nominal license fee. At the same time, it precludes copyright owners from fully controlling the distribution of their product and thus from maximizing its value. It also elevates the interest of cable television systems over those of competing video distribution services, which generally have to bargain for and receive the right to transmit coprighted programming on a full copyright liability basis. The fact that cable television systems are the special beneficiaries of a compulsory copyright license thus poses important issues of competitive equity and efficiency. The purpose of this Notice of Inquiry is to gather information on the effects of the compulsory license for cable retransmissions to determine whether its continuance would serve the public interest and thus whether the

Commission should make a legislative recommendation to Congress for its abolition.

Procedural Matters

Accordingly, it is ordered that an inquiry into the above-captioned matter be instituted. Authority for this inquiry lies in sections 4(i)), 4(j), and 403 of the Commissions Act of 1934, as amended, 47 U.S.C. sections 154(i), 154(j), and 403. Interested parties may file comments on or before June 22, 1987, and replies on or before August 6, 1987. Section 1.51 of the Commission's rules, 47 CFR 1.51(c), requires participants to file an original and four copies of all comments, replies and supporting documents.

For further information concerning this proceeding, contact Kenneth Gordon, Office of Plans and Policy, (202) 653–5940.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–9785 Filed 4–29–87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Ellinwood Banchares, Inc.; Applications To Engage De Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(A)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 22, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Ellinwood Bancshares, Inc.*, Ellinwood, Kansas; to engage *de novo* in the sale of general insurance by a one bank holding company located in a community with a population of less than 5,000 pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. This activity will be conducted in an area within a 9 mile radius of Ellinwood, Kansas.

Board of Governors of the Federal Reserve System, April 24, 1987.

Barbara R. Lowrey,

Associated Secretary of the Board.

[FR Doc. 87–9728 Filed 4–29–87; 8:45 am]

BILLING CODE 6210-01-M

First Capital 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 may 20, 1987.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Capital Corporation*, Jackson, Mississippi; to merge with Gateway Capital Corporation, Hernando, Mississippi, and thereby indirectly acquire Hernando Bank, Hernando, Mississippi.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 120 South LaSalle Street, Chicago, Illinois 60690:

1. *Brown Deer Bank Profit Sharing Plan*, Brown Deer, Wisconsin; to become a bank holding company by acquiring 25.50 percent of the voting shares of Capital One Corp., Brown Deer, Wisconsin, and thereby indirectly acquire The Brown Deer Bank, Brown Deer, Wisconsin.

Board of Governors of the Federal Reserve System, April 24, 1987.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 87–9727 Filed 4–29–87; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Joloyn W. McCamic et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they 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 indicated for that notice of to the offices of the Board of Governors. Comments must be received not later than May 15, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Joloyn W. McCamic*, Wheeling, West Virginia; to acquire 14.16 percent of the voting shares of American Bancorporation, Wheeling, West Virginia, and thereby indirectly acquire

Quaker City National Bank, Quaker City, Ohio.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *W. A. Coon, Jr.*, Boyce, Louisiana; to acquire an additional 11 percent of the voting shares of First National Bancshares of Louisiana, Inc., Alexandria, Louisiana, and thereby indirectly acquire Security First National Bank, Alexandria, Louisiana.

C. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Billy L. Brown*, Lake Dallas, Texas; to acquire 20.58 percent of the voting shares of Northway Bancshares, Inc., Richardson, Texas, and thereby indirectly acquire Great Western National Bank of Lewisville, Lewisville, Texas; Northway National Bank, Addision, Texas; and Richardson National Bank, Richardson, Texas.

Board of Governors of the Federal Reserve System, April 24, 1987.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 87-9726 Filed 4-29-87; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Activities Under OMB Review; ADPE Solicitation Provision (Discontinuance Repricing)

AGENCY: Information Resources Management Service (KMPR); GSA.

ACTION: Notice of request to have the Office of Management and Budget reinstate an information collection (3090-0143) identified incorrectly in a similar request of January 29, 1987.

SUMMARY: Under the Paperwork Reduction Act of 1980, GSA requests public comment on a proposed information collection, which would result when the agency's contracting officer decides during negotiations to use a discontinuance repricing clause and requires contractors to report whether they will use it also.

Annual Reporting Burden: Firms responding, 650; responses, 1 each; total hours, 22.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Rodney P. Lantier, GSA Clearance Officer, GSA (CAID), Washington, DC 20405.

For More Information Telephone: Phillip R. Patton (202) 566-0194.

Copy of Proposal: Readers may obtain a copy of the proposal by writing the Directives and Reports Management Branch (CAID), Room 3015, GS Bldg., Washington, DC 20405 or by telephoning (202) 566-0668.

Dated: April 22, 1987.

Michael G. Barbour,

Director, Information Management Division.

[FR Doc. 87-9722 Filed 4-29-87; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Endangered Species Permits; Zoo Atlanta, Atlanta, GA, et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-716097

Applicant: Zoo Atlanta, Atlanta, GA.

The applicant requests a permit to export five captive-born Morelet's crocodiles (*Crocodylus moreletii*) to the Museum National D'Histoire Naturelle, Paris, France, for enhancement of propagation and survival.

PRT-717523

Applicant: Nathan F. Cardarell, University of Akron, Akron, OH.

The applicant requests a permit to import glandular organs from up to twelve green sea turtles (*Chelonia mydas*) that were captive-born at the Cayman Turtle Farm, Cayman Islands, British West Indies, for research on the role of trace metals in the aging process.

PRT-715459

Applicant: Southern Nevada Zoological Park, Las Vegas, NV.

The applicant requests a permit to harass one 9 year old female leopard (*Panthera pardus*), ID #102, and one 4 year old female tiger (*Panthera tigris*), ID #111, currently being maintained at their facilities for the purpose of exhibit. In addition, the applicant intends on obtaining up to ten thick-billed parrots (*Rhynchopsitta pachyrhyncha*) as a donation from either the San Diego Zoological Society, San Diego, California or the Sonora Desert Museum, Tucson, Arizona, to be maintained at their facilities for the purpose of enhancement of propagation and exhibit.

PRT-717490

Applicant: Tom Cade, The Peregrine Fund, Inc., Ithaca, NY 14850.

The applicant requests a permit to import up to 20 live Aplomado falcons (*Falco femoralis* spp *septentrionalis*) taken from the wild in Mexico for the purpose of propagation of the species.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm), Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: May 27, 1987.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-9827 Filed 4-29-87; 8:45 am]

BILLING CODE 4310-55-M

Issuance of Permit for Marine Mammals; Kobe Municipal Suma Aquarium

On March 10, 1987, a notice was published in the **Federal Register** (52 FR 7324) that an application had been filed with the Fish and Wildlife Service by Kobe Municipal Suma Aquarium (PRT # 715242) for a permit to take, transport and maintain four female Northern sea otters (*Enhydra lutris lutris*).

Notice is hereby given that on April 22, 1987, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 through 1407), and the Endangered Species Act of 1972 (16 U.S.C. 1539), Fish and Wildlife Service issued a permit subject to certain conditions set forth therein.

The permits are available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 611, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: April 22, 1987.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-9828 Filed 4-29-87; 8:45 am]

BILLING CODE 4310-55-M

Issuance of Permit for Marine Mammals; Adventure World

On March 2, 1987, a notice was published in the **Federal Register** (52 FR 6228) that an application had been filed

with the Fish and Wildlife Service by Adventure World (PRT# 715460) for a permit to take (capture) 5 Alaskan sea otters (*Enhydra lutris lutris)* and export them to Adventure World, Prefecture, Japan, for public display.

Notice is hereby given that on April 22, 1987, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 through 1407), and the Endangered Species Act of 1972 (16 U.S.C. 1539), the Fish and Wildlife Service issued a permit subject to certain conditons set forth therein.

The permits are available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 611, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: April 22, 1987.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-9829 Filed 4-29-87; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Indian Affairs

Pueblo of Laguna, Laguna Reservation, NM; Ordinance Relating to the Use and Distribution of Liquor

April 14, 1987.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Ordinance No. 300-86 enacting the "Laguna Pueblo Liquor Ordinance" was duly adopted by the Pueblo of Laguna Council on August 26, 1986. The ordinance provides for the distribution of alcoholic beverages in the area of Indian country under the jurisdiction of the Pueblo of Laguna of the Laguna Reservation. The ordinance reads as follows:

Ronald L. Esquerra,

Acting Assistant Secretary—Indian Affairs.

Ordinance No. 300-86

Whereas, the Pueblo Council of the Pueblo of Laguna is the duly constituted body of the Pueblo of Laguna by the authority of the Constitution of the Pueblo of Laguna adopted by the qualified voters of the Pueblo on February 15, 1984, and approved on June 6, 1984, by the Acting Assistant Secretary—Indian Affairs, Department of the Interior; and

Whereas, pursuant to Article IV, section 2(g), the Pueblo Council is vested with the specific power to regulate trade . . . among members and other persons or entities residing or engaging in activity on the lands of the Pueblo subject to Article IX of the Constitution and pursuant to section 2(f), the Pueblo Council is vested with the specific power to levy and collect taxes . . . from any member or person or entity residing or engaging in an activity on the lands of the Pueblo, and to raise revenue for the needs of the Pueblo; and

Whereas, the introduction, possession and sale of liquor on the Laguna Reservation since time immemorial have been clearly recognized as matters of special concern to the Pueblo of Laguna and its members and to the United States; and

Whereas, federal law currently permits the introduction of liquor into Indian country (18 U.S.C. 1154) leaving Indian tribes the decision regarding when and to what extent liquor transactions shall be permitted (18 U.S.C. 1161); and

Whereas, to date the Pueblo Council of the Pueblo of Laguna has not authorized the introduction, possession or sale of liquor within the reservation boundaries; however, current circumstances make a complete ban on liquor within the Laguna Reservation ineffective and unrealistic, thereby necessitating strict tribal regulations and control over liquor distribution; and

Whereas, the enactment of an ordinance governing liquor sales on the reservation providing for exclusive wholesale purchase and retail sale by the Pueblo will increase the ability of the Pueblo government to control reservation liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation of the Pueblo government and delivery of government services.

Now, Therefore, Be It Ordained by the Pueblo Council of the Pueblo of Laguna that in order to provide for increased Pueblo control over liquor distribution and possession within the boundaries of the Laguna Reservation and to provide for additional revenue, this liquor control ordinance is hereby adopted.

Laguna Pueblo Liquor Ordinance

Section 1. Definitions

As used in this ordinance the following definitions shall apply unless the context clearly indicates otherwise:

(A) "BIA" means the Bureau of Indian Affairs, Department of the Interior.

(B) "Council" means the Pueblo of Laguna Council.

(C) "Governor" means the Governor of the Pueblo of Laguna in accordance with Section 1 of Article VI of the Constitution of the Pueblo of Laguna.

(D) "Liquor" includes the four varieties of liquor commonly referred to as alcohol, spirits, wine and beer, and all fermented, spiritous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spiritous, vinous or malt liquor, or otherwise intoxicating. Every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer.

(E) "Minor" means any person under the age of twenty-one (21) years of age.

(F) "Package" means any container or receptacle used for holding liquor.

(G) "Person" means an individual, whether a member or non-member of the Pueblo, corporation, firm, partnership, co-partnership, association, enterprise or other legal entity.

(H) "Pubic Place" includes streets and plazas of Pueblo villages; State, county, tribal or Federal highways or roads; stores and shopping centers and grounds thereof; government buildings; public buildings; schools; churches; public meeting halls, lobbies and halls of offices, restaurants, theaters, stores, garages, and service stations which are open to and generally used by the public, and grounds thereof; open spaces of the reservation except for private land, yards, allotments, and land assignments; buses, including school buses, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith; publicly or school-owned parks and/or playgrounds, and all other places of the like or similar nature which are generally used by the public or public schools.

(I) "Pueblo" means the Pueblo of Laguna.

(J) "Purchase" includes the exchange, barter, traffic, receipt with or without consideration by any means whatsoever, of liquor as defined herein, by any person.

(K) "Reservation" means all lands within the exterior boundaries of the Laguna Reservation, including rights-of-way, lands owned in fee, allotted lands, tribally purchased lands, and land that may be leased by the Pueblo of Laguna.

(L) "Sale" includes the exchange, barter, traffic, donation with or without consideration, in addition to the selling, supplying or distributing, by any means whatsoever, of liquor, as defined herein, by any person to any person.

(M) "Tribal Court" means the Pueblo of Laguna Court.

Section 2. Relation to Other Pueblo Laws

All prior ordinances and resolutions of the Pueblo of Laguna regulating, authorizing, prohibiting or in any way dealing with the sale of liquor are hereby repealed and of no further force and effect. No Pueblo business licensing law or other Pueblo law shall be applied in a manner inconsistent with the provisions of this ordinance.

Section 3. Prohibition

The introduction, wholesale purchase, sale and dealing in liquor, other than by the Pueblo of Laguna or an enterprise of the Pueblo or corporation the majority stock ownership of which is held by the Pueblo which is properly authorized by the Pueblo to deal in liquor sales is prohibited within the Laguna Reservation. Prossession of liquor by any person now prohibited by federal law shall be lawful so long as possession is in conformity with this ordinance. Federal Indian liquor laws (18 U.S.C. 1161 and 1154) shall remain applicable to any act or transaction which is not authorized by this ordinance and violators of this ordinance shall be subject to federal prosecution as well as to legal action in accordance with Pueblo law.

Section 4. Conformity with State Law

Pueblo standards for liquor transactions shall meet or exceed those required by the State of New Mexico.

Section 5. Sales

(A) Sales Only by the Pueblo

No introduction, wholesale purchase or sale of liquor shall be made within the exterior boundaries of the Laguna Reservation except by the Pueblo, or by an enterprise of the Pueblo, or by a corporation the majority stock of which is held by the Pueblo, authorized to make such wholesale purchase or sale of liquor. Authorization to engage in the wholesale purchase, sale or distribution of liquor shall be made to a qualified entity by resolution of the Pueblo Council.

(B) All Sales for Personal Use

All sales shall be for the personal use of the purchaser and resale for profit of any liquor whether in the original container or not shall be a violation of this ordinance and the violator shall be subject to the penalties described herein. Provided, however, that a Pueblo enterprise authorized to purchase and sell liquor may sell or make arrangements to sell liquor at special events so long as such sale is authorized by the Pueblo Council separately for each event.

(C) Package Sale Only

All sales of liquor shall be in package form only and not for consumption on the premises or in any public place, except that the Council may, in its sole discretion, authorize the sale of liquor by the drink for special events.

(D) No Sale to Minors

No sale of any liquor shall be made to any person under the age of twenty-one (21) years of age.

(E) Limited Sunday and Election Day Sales Allowed

No sale of liquor shall be allowed on Sunday. Sale of liquor shall be allowed on any tribal, State or Federal election day starting one (1) hour after polls are closed. No sale shall be allowed on any day or at any time determined by the Pueblo Council that liquor sales shall be prohibited.

(F) Prohibition of Sales During Emergency

The Governor of the Pueblo of Laguna may, on an emergency basis and for a period of time not to exceed five (5) business days, by written order, prohibit the sale of liquor until such emergency order can be considered by the Pueblo Council which may, in its discretion, extend such emergency order for any length of time it determines necessary, or may issue emergency rules, regulations, directions or orders concerning such introduction, possession, sale or purchase of liquor within the reservation boundaries.

(G) Hours of Sale

No sale of liquor shall be made except during the hours allowed by state law.

(H) location of sales

An entity authorized to sell liquor shall do so only at those locations authorized by the Pueblo Council.

(I) Sale to be Made by Adults

All handling, stocking possession or sale of liquor pursuant to this ordinance shall be made by persons twenty-one (21) years of age or older.

(J) Evidence of Age and Identity

Evidence of age and identity of the purchaser must be shown by a current and valid state driver's license which contains the signature, birth date and picture of the holder of the license.

(K) Demand for Identification

Any person, business, organization, or other legal entity authorized to sell liquor within the Laguna Reservation by resolution of the Pueblo Council shall have the authority to demand of any person the production of proper evidence of age and identity before making any sales of liquor to such person, if there exists some doubt as to the age of the person.

(L) Right to Refuse Sale

Any person, business, organization, or other legal entity authorized to sell liquor within the Laguna Reservation shall have the authority to refuse to sell liquor to any person who is unable to produce proper evidence of age and identity as prescribed by section 5(J) of this ordinance, as evidence that such person is twenty-one (21) years of age or older; and shall have the authority to refuse to sell liquor to any person who the seller believes is under the influence of alcohol.

Section 6. Pueblo Property

The entire stock of liquor referred to under this ordinance shall remain the property of the Pueblo or authorized entity until sold.

Section 7. All Sales Cash

Sales by a Pueblo enterprise as defined herein shall be by cash, check or credit card only and no credit otherwise shall be extended to any person, organization or entity.

Section 8. Illegal Activities

(A) Purchase from or Sale to Unauthorized Person

It shall be a violation of this ordiance for any person within the boundaries of the Laguna Reservation to buy liquor from or sell liquor for resale to any person other than a properly authorized Pueblo business enterprise.

(B) Sale to Minors

Any person who shall sell, serve or provide any liquor to any minor person shall be in violation of this ordinance.

(C) Purchase by Minor

Any minor person who shall purchase, attempt to purchase or posses any liquor shall be in violation of this ordinance.

(D) Sale to person Apparently Intoxicated

Any person who knowingly sells liquor to a person who the seller has reason to believe is under the influence of alcohol or any person under the influence of alcohol who shall purchase liquor shall be in violation of this ordinance.

(E) Drinking in Public Places

Any person who shall drink any liquor in a public place shall be in violation of this ordinance unless the Council has authorized consumption of liquor at such location.

(F) Open Containers Prohibited

Any person who shall have an open container of liquor in a public place except for public places where liquor consumption has been authorized by the Council; or who has possession of an open container of liquor in or on a vehicle or who as a driver knowingly permits an open container of liquor in or on a vehicle, unless said vehicle is not in a public place or location where liquor consumption has been authorized by the Council, shall be in violation of this ordinance.

(G) Proof of Unlawful Sale

In proceeding under this ordinance, proof of one unlawful sale of liquor shall suffice to establish prima facie the intent or purpose of unlawfully keeping liquor for sale or selling for resale in violation of this ordinance.

(H) Use of Fale or Altered Identification

Any person who attempts to purchase liquor through the use of false or altered identification which falsely purports to show the individual to be over the age of twenty-one (21) shall be in violation of this ordinance.

(I) Defense to Action for Sale to Minors

It shall be a defense to an alleged violation of this ordinance for selling liquor to a minor person if such purchaser has presented identification in accordance with this ordinance showing the purchaser's age to be over twenty-one (21) years. In addition to the presentation of identification by the purchaser in accordance with this ordinance, such as a driver's license, the person selling, if still in question of the purchaser's age, may require the purchaser to print his or her name on a file card, sign and date the card. Such card shall be filed alphabetically in a file box and be subject to examination by the members of the Board of the enterprise authorized to sell liquor or their delegates, or by any BIA or Pueblo law enforcement officer, any designated employee of the Pueblo, employees of the Pueblo enterprise authorized to sell liquor, and by the Governor of the Pueblo or his delegate. Such card in the possession of the Pueblo business enterprise authorized to sell liquor may be offered as a defense in any hearing held by the Pueblo Court for sale to the person who signed the card and may be considered by the Court as evidence that the Pueblo business enterprise and its employees acted in good faith.

Section 9. Excise Tax Levy

(A) Excise Tax Levied.

There is hereby levied and shall be collected an excise tax upon each sale of liquor in whatever package or container, in the amount of five percent (5%) of the selling price. Said excise tax shall be added to the sales price of the liquor sold and shall be paid by the buyer to the business enterprise selling liquor which shall collect the same and hold such amounts for the Pueblo until deposited as provided for in this ordinance.

(B) Deposits.

The taxes collected shall be submitted at least monthly to the Treasurer of the Pueblo who shall upon receipt deposit the same to a special account or fund of the Pueblo. The Treasurer shall report said tax collections, expenditures and the status of such special account or fund to the Governor and Pueblo Council at least quarterly.

(C) Use of Revenues

Tax revenues shall be used for the benefit of the reservation and Pueblo community. In approporiating these tax revenues, the Council shall give priority to:

(1) Strengthening Pueblo government, which shall include but not be limited to, strengthening the Pueblo justice system enforcing this ordinance.

(2) Health, education, and other social services programs.

(3) Alcohol and drug abuse prevention activities and community services which relate specifically to the needs of the Pueblo of Laguna.

The Pueblo Council shall in its discretion determine which of the above priorities shall receive an appropriation and the amount of such appropriation.

(D) *Modification of Tax*

The amount and type of taxes levied by this section may be modified from time to time by resolution of the Pueblo Council with or without notice or public hearing.

Section 10. Sovereign Immunity Preserved

Nothing in this ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Pueblo of Laguna. No officer, manager or employee of an enterprise of the Pueblo shall be authorized nor shall he attempt to waive the sovereign immunity of the Pueblo.

Section 11. Penalty

Any person, or entity purchasing, possessing, selling, bartering, or manufacturing liquor products in violation of any part of this ordinance, rule or regulation adopted pursuant to this ordinance shall be subject to a civil fine of not more than Five Hundred Dollars ($500) for each violation. In addition, persons or entities subject to criminal prosecution by the Pueblo who purchase, possess, sell, barter, or manufacture liquor products in violation of any part of this ordinance, or any rule and regulation adopted thereunder, shall be subject to punishment not to exceed six (6) months imprisonment or to a fine not to exceed Five Hundred Dollars ($500) or to both such imprisonment and fine or as otherwise provided in the Pueblo of Laguna Law and Order Code. All contraband merchandise shall be confiscated by the Pueblo of Laguna and disposed of as directed by the Pueblo Court.

Section 12. Severability

If any clause, part, or section of this ordinance shall be adjudged invalid such judgment shall not affect or invalidate the remainder of the ordinance, but shall be confined in its operation to the clause, part, or section directly involved in controversy in which such judgment was rendered.

Section 13. Disclaimer

Nothing in this ordinance shall be construed to authorize or require the criminal trial and punishment of non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision.

Section 14. Regulation

The Council shall have the authority to adopt and enforce rules and regulations to implement this ordinance and to further the purposes thereof.

Section 15. Effective Date

This ordinance shall be effective upon the date that the Secretary of the Interior certifies this ordinance and publishes it in the the **Federal Register**.

Section 16. Amendment

This ordinance may be amended by majority vote of the Pueblo Council subject to approval by the Secretary of Interior except for the modifications allowed by resolution in section 9(D) which shall not be subject to Secretarial approval.

Certification

The foregoing ordinance was enacted by the Pueblo Council of the Pueblo of Laguna on the 26th day of August, 1986, by a vote of 18 for, 1 against, and 1 abstaining, at a duly called meeting at which a quorum of the Pueblo Council members was present.

Chester T. Fernando,
Governor.
Harvey Garcia,
Council Member.
Ray Garcia,
Council Member.
Attest:
Gerald Pedro,
Secretary.

[FR Doc. 87-9719 Filed 4-29-87; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

[CO-942-06-4520-12]

Colorado; Filing of Plats of Survey

April 22, 1987.

The plat of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., June 16, 1987.

The plat representing the retracement of a portion of the Colorado and New Mexico State Boundary (from Mile Corner No. 286 to Mile Corner No. 291+0.90), the dependent resurvey of a portion of the boundary between the Ute Mountain Ute and Southern Ute Indian Reservations, identical with a portion of the west boundary, T. 32 N., R. 13 W. and the Eighth Standard Parallel North (south boundary, T. 33 N., R. 13 W.), and the survey of the east boundary, T. 32 N., R. 14 W. and the subdivisional lines in T. 32 N., R. 13½ W., New Mexico Principal Meridian, Colorado, Group No. 735, was accepted April 7, 1987.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

The plat of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., April 22, 1987.

The plat representing the dependent resurvey of a portion of the subdivisional lines, the survey of the subdivision of section 8, and a metes-and-bounds survey in section 8, T. 6 S., R. 93 W., Sixth Principal Meridian, Colorado, Group No. 796, was accepted April 9, 1987.

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 Youngfield Street, Lakewood, Colorado 80215.

Jack A. Eaves,
Chief, Cadastral Surveyor for Colorado.

[FR Doc. 87-9806 Filed 4-29-87; 8:45 am]
BILLING CODE 4310-JB-M

[CO-940-07-4220-11; C-28325]

Colorado; Notice of Proposed Continuation of Withdrawal

April 22, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, proposes that the order which withdrew lands for an indefinite period of time for the Old Agency Administrative Site, be modified and the withdrawal be continued for 20 years insofar as it affects 10 acres of public land. The land will remain closed to surface entry and mining, but not to minimal leasing.

DATE: Comments should be received on or before July 29, 1987.

ADDRESS: Comments should be addressed to State Director, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, (303) 236-1768.

SUPPLEMENTARY INFORMATION: .

The Forest Service, U.S. Department of Agriculture, proposes that the existing withdrawal made by Secretarial Order of January 16, 1909, as amended, for an indefinite period of time, be modified to expire in 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following identified lands:

New Mexico Principal Meridian

T. 46 N., R. 1 E.,
Sec. 35, NW¼SE¼SE¼.

The area described aggregates 10 acres in Saguache County.

The purpose of this withdrawal is for the administration and protection of the Old Agency Administrative Site. No change is proposed in the purpose of segregative effect of the withdrawal. The land will continue to be withdrawn from surface entry and mining, but not from mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be modified and continued and, if so, for how long. Notice of the final determination will be published in the **Federal Register.** The existing withdrawal will continue until such determination is made.

Mary P. Nagel,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-9808 Filed 4-29-87; 8:45 am]
BILLING CODE 4310-JB-M

[ID-020-07-4341-10]

Idaho; Burley District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting for Burley District Advisory Council.

SUMMARY: Notice is hereby given that the Burley District Advisory Council will meet on June 10, 1987. The meeting will convene at 10:00 am in the Conference Room of the Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho.

Agenda items are: (1) District off-road vehicle management; (2) prescribed burning program; (3) use of range improvement monies; and (4) riparian habitat management. Information items are: (1) BLM/FS interchange; (2) Shoshone Creek riparian plan; (3) BLM/State land exchange program; (4) rangeland monitoring program; and (5) volunteer program.

This meeting is open to the general public. The comment period for persons or organizations wishing to make oral statements to the Council will start at 3:00 pm. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, prior to the start of the meeting. Depending upon the number of persons wishing to make statements, a per time limit may be established by the District Manager. Written statements may also be filed.

Minutes of the Council meeting will be maintained in the District Office and will be available for public inspection during regular business hours.

DATE: June 10, 1987.

ADDRESS: Bureau of Land Management, Burley District Office, Route 3, Box 1, Burley, Idaho 83318.

FOR FURTHER INFORMATION CONTACT: John Davis, Burley District Management, (208) 678–5514.

Dated: April 21, 1987.

John S. Davis,

Distict Manager.

[FR Doc. 87–9794 Filed 4–29–87; 8:45 am]

BILLING CODE 4310–GG–M

[ID–030–07–4322–15]

Idaho Falls District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting and agenda for Idaho Falls district grazing advisory board.

SUMMARY: Notice is hereby given that the Idaho Falls District Grazing Advisory Board will meet on June 2, 1987.

The meeting will convene at 8:30 a.m. on June 2, 1987, at the Idaho Falls District Office at 940 Lincoln Road, Idaho Falls, Idaho.

The agenda for this meeting includes a tour of reparian demonstration areas and small hydro projects in the Little Lost Valley. Topics of discussion during the tour will be a status report on the Blackfoot River stock driveway, an update on the Pocatello Resource Management Plan hearings and project proposals to be funded by the Advisory Board.

The public is invited to attend the tour, although they must arrange for their own transportation. A public comment period will be held at the Andreason's Store in Howe, Idaho beginning at 10:00 a.m. Interested persons may make an oral statement to the Board or they may file written statements for the Board's consideration. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager. Anyone wishing to make an oral statement should contact the District Manager by June 1, 1987, for inclusion in the meeting schedule.

Detailed minutes of the Board meeting will be maintained in the District Office and will be available for public review during regular business hours, (7:45 a.m. to 4:30 p.m., Monday through Friday) within 30 days following the meeting.

DATE: June 2, 1987.

ADDRESS: Written comments should be submitted to District Manager, Bureau of Land Management, 940 Lincoln Rd., Idaho Falls, ID 83401.

FOR FURTHER INFORMATION CONTACT: Scott Powers, Public Affairs Specialist, Telephone: (208) 529–1020.

April 24, 1987.

Lloyd H Ferguson,

District Manager.

[FR Doc. 87–9795 Filed 4–29–87; 8:45 am]

BILLING CODE 4310–GG–M

California; Susanville District Grazing Advisory Board; Meeting and Tour

AGENCY: Bureau of Land Management, Interior, Susanville District Grazing Advisory Board, Susanville, California 96130.

ACTION: Notice of meeting and tour.

SUMMARY: Notice is hereby given that the Susanville District Grazing Advisory Board, created under the Secretary of the Interior's discretionary authority on May 14, 1986, will meet on June 2 and June 3, 1987.

The meeting on June 2 will begin at 10:00 a.m. at the Susanville District Office of the Bureau of Land Management, 705 Hall Street, Susanville, California. On June 3 the Board will tour portions of the Eagle Lake Resource Area with the District Advisory Council. The tour will leave from the front of the District Office at 8:00 a.m.

The agenda on June 2 will include a discussion of the Range Improvement Maintenance Policy, a report on the status of Nevada water rights, an update on the Reno Area Water Plan, a discussion of keeping the Range Condition Report up to date, a discussion of Actual Use Reporting, an update on the Correctional Center Horse Training Program, an update on the Productivity Pilot for the Susanville District, and other items as appropriate.

The tour on June 3 will be of Range Improvement work in the Eagle Lake Resource Area. Special attention will be given to the prescribed burning done in the Resource Area.

The meeting on June 2 is open to the public. Interested persons may make oral statements to the Board between 3:00 p.m. and 4:40 p.m. on June 2, 1987, or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California 96130, by May 27, 1987. Depending upon the number of persons wishing to make oral statements, a per person time limit may be established.

Summary minutes of the board meeting will be maintained in the District Office, and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

The tour on June 3 is also open to the public. Anyone wishing to make the tour should contact the Eagle Lake Resource Area Office, phone number 916–257–5381, prior to May 27, 1987.

Robert J. Sherve,

Acting District Manager.

[FR Doc. 87–9797 Filed 4–29–87; 8:45 am]

BILLING CODE 4310–40–M

California; Susanville, District Advisory Council; Meeting and Tour

AGENCY: Bureau of Land Management, Interior, Susanville District Advisory Council, Susanville, California 96130.

ACTION: Notice of meeting and tour.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94–579 (FLPMA), that a District Advisory Council tour and meeting will be held on June 3 and 4, 1987. The tour on June 3, will leave from the front of the Susanville District Office, 705 Hall Street, Susanville, California at 8:00 a.m. Portions of the Eagle Lake Resource Area will be toured with the District Grazing Advisory Board. The meeting June 4, will begin at 8:00 a.m. in the Susanville District Office Conference Room.

The tour, June 3rd, will be over prescribed fire areas in the Great Basin portion of the District. The meeting, June 4th, will include a discussion of the Productivity Pilot Project and an update of Nevada Water Rights. The meeting is open to the public and interested persons may make oral statements to the Council or file a written statement for the Council's consideration.

Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California, 96130, by May 28, 1987. Depending upon the number of persons wishing to make oral statements, a per person time limit may be established.

Summary minutes of the Council meeting will be maintained in the District Office, and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

For further information contact: John Bosworth, Planning and Environmental Coordinator, at 916–257–5381.

Robert J. Sherve,

Acting District Manager.

[FR Doc. 87–9796 Filed 4–29–87; 8:45 am]

BILLING CODE 4310–40–M

[NM NM 66028]

New Mexico; Proposed Reinstatement of Terminated Oil and Gas Lease; Eddy County

AGENCY: Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87504.

Under the provisions of 43 CFR 3108.2–3, Sun Exploration and Production Company, petitioned for reinstatement of oil and gas lease NM NM 66028 covering the following described lands located in Eddy County, New Mexico:

T. 26 S., R. 30 E., NMPM, New Mexico

Sec. 4: W½;
Sec. 12: S½;
Sec. 13: All.

Containing 1,280.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $7.00 per acre per year and royalties shall be at the rate of 16 2/3 percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, November 1, 1986.

Dated: April 17, 1987.

Martha A. Rivera,

Acting Chief, Adjudication Section.

[FR Doc. 87–97999 Filed 4–29–87; 8:45 am]

BILLING CODE 4310–FB–M

[NM NM 63540]

New Mexico; Proposed Reinstatement of Terminated Oil and Gas Lease; Sandoval County

AGENCY: Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87504.

Under the provisions of 43 CFR 3108.2–3, Tenneco Oil Company, petitioned for reinstatement of oil and gas lease NM NM 63540 covering the following described lands located in Sandoval County, New Mexico:

T. 22 N., R. 1 W., NMPM, New Mexico

Sec. 2: Lots 1–4, S½N½, SW¼;
Sec. 11: NW¼, SE¼SW¼, SE¼.

Containing 837.44 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and royalties shall be at the rate of 16 2/3 percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, December 1, 1986.

Dated: April 17, 1987.

Martha A. Rivera,

Acting Chief, Adjudication Section.

[FR Doc. 87–9798 Filed 4–29–87; 8:45 am]

BILLING CODE 4310–FB–M

[ES–34832]

Arkansas Realty Action; Competitive Sale of Public Land; in Van Buren County

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action: Competitive sale of public land in Van Buren County, Arkansas.

SUMMARY: The following described lands have been examined and identified as suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at not less than the appraised fair market value.

5th Principle Meridian, Arkansas

T. 11 N., R. 17 W.,
Section 24: SE¼NW¼

Containing 40.00 acres, more or less at a Fair Market Value of $10,000.

The method of sale will be by sealed bid. Sealed bids must be received in the Jackson District Office, Suite 326, 300 Woodrow Wilson Blvd., Jackson, Mississippi 39213, by close of business, 4:00 p.m. on June 19, 1987. Bids must be accompanied by not less than (10%) of the bid price and must have seal bid ES–34832 written in the lower left hand corner of the envelope. The declared high bidder will be required to submit the remainder of payment within 180 days after receipt of the decision. Bids are to be made payable by certified check, bank draft, money order or a combination thereof (no personal checks). Should the land not be sold by close of business on June 19, 1987, it will be available for purchase over-the-counter at the Jackson District Office on the second and fourth Wednesday following the date of sale between the hours of 8:00 a.m. and 4:00 p.m. for a period of four months.

The patent will be subject to all valid existing rights and reservation of record. Reserving to the government all the mineral in the land and the right to propect for, mine, and remove the same.

Publication of this Notice will segregate the subject land from all appropriations under the public land laws; but not the minerals leasing laws. This segregation will terminate upon issuance of patent, or 270 days from the date of this Notice or upon publication of a Notice of termination. Detailed information concerning the sale, including the environmental assessment and land report, is available for review at the BLM office listed below.

For a period of 45 days after the date of issuance of this Notice, the public and interested parties may submit comments to the District Manager, Jackson District Office, Suite 326, 300 Woodrow Wilson, Jackson, Mississippi 39213. Comments will be evaluated by the District Manager, who may vacate or modify this Realty Action. In the absence of any action by the District Manager, this Realty Action will become the final determination of the Department of the Interior.

For further information, contact Douglas Jones (601) 965–4405.

Dated: April 22, 1987.

Henry Beauchamp,

District Manager.

[FR Doc. 87–9802 Filed 4–29–87; 8:45 am]

BILLING CODE 4310–J–M

[CO–050–4212–13; C–42693]

Colorado; Realty Action in Park Teller, Custer, and Saguache Counties

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action C–42693; exchange of public lands in Park, Teller, and Custer Counties for private land in Saguache County, Colorado; Segregation of public lands from all forms of entry except as noted herein for a period of two years.

SUMMARY: The United States would acquire non-Federal lands with significant public values for wildlife habitat, fisheries, recreation and access by completing the exchange described below.

DATE: Comments must be received by June 15, 1987.

FOR FURTHER INFORMATION AND PUBLIC COMMENT: Contact the District Manager, Canon City District Office, 3080 E. Main Street, P.O. Box 311, Canon City, CO 81212. Interested parties should comment by June 15, 1987. Comments will be evaluated by the District Manager, who may cancel or modify this

realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of Interior.

SUPPLEMENTARY INFORMATION: The following described public land has been determined to be suitable for disposal by exchange under section 206 of the "Federal Land Policy and Management Act of 1976", 43 U.S.C. 1716:

T.14S., R.71W., 6th P.M.
- Sec. 17, SE¼NE¼, NE¼SE¼
- Sec. 18, Lots 3 and 4, E½SE¼
- Sec. 19, Lot 1
- Sec. 20, N½SW¼
- Sec. 24, N½NW¼, SE¼NW¼, NE¼SW¼, NW¼SE¼
- Sec. 32, S½NE¼
- Sec. 33, SW¼SE¼
- Sec. 34, NW¼SW¼

T.14S., R.72W., 6th P.M.
- Sec. 11, NE¼SE¼
- Sec. 12, Lot 4
- Sec. 13, NW¼NE¼
- Sec. 30, Lot 2
- Sec. 34, NW¼NE¼

T.22S., R.73W., 6th P.M.
- Sec. 8, NW¼SE¼
- Sec. 18, W½NE¼, NE¼NW¼

T.45N., R.12E., NMPM
- Sec. 12, Lot 2

Containing 1109.31 acres, more or less.

In exchange for these lands, the Federal Government will acquire the following private lands from Thomas Coolidge:

T.41N., R.6E., NMPM
- Sec. 2, SW¼SW¼
- Sec. 3, SE¼SE¼
- Sec. 10, E½NE¼, SW¼NE¼, N½N½N½SE¼, and that portion of SE¼NW¼ and NE¼NE¼NE¼SW¼ east of the easterly boundary of that parcel of land excluded from the quit claim recorded at Book 397 Page 483, Saguache County. S½SW¼ and SW¼SE¼, those portions lying southerly of the north right-of-way line of La Garita Creek road;
- Sec. 11, NW¼NW¼ and SW¼NE¼, S½NW¼ and N½N½NW¼SW¼ excluding that parcel of land conveyed by warranty deed recorded at Book 406 Pages 982 and 983, Saguache County;
- Sec. 14, W½NW¼;
- Sec. 15, N½NE¼, SW¼NE¼, NW¼NW¼; S½NW¼, and SW¼;
- Sec. 22, NW¼;
- Sec. 23, NE¼ and E½NW¼;
- Sec. 24, W½NW¼.

Containing 1,375 acres, more or less.

Offered Water Rights

Dee Bois Ditch, 1.04 c.f.s., priority 23.

The purpose of the exchange is to acquire private lands with significant public values and dispose of 18 public land parcels with no public values.

The appraised values of the public and private lands are approximately equal.

Any differences will be equalized by acreage or cash adjustment.

The publication of this notice segregates the public lands described herein from all appropriations under the public land laws, including the mining laws, except as provided in the notice.

Donnie R. Sparks,

District Manager.

[FR Doc. 87-9803 Filed 4-29-87; 8:45 am]

BILLING CODE 4310-JB-M

[ID-030-07-4212-14; I-23540, I-23793, I-20354, I-20355, and I-23363]

Idaho Falls District; Realty Action In Franklin and Bingham Counties

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, sale of public land in Franklin and Bingham Counties, Idaho.

DATE AND ADDRESS: The sale offering will be held on Tuesday, June 30, 1987, at 1:00 p.m. in the basement meeting room, B-23, of the Federal Building, 250 South 4th Avenue, Pocatello, Idaho. Unsold parcels will be offered every second Tuesday of the month through September 8, 1987, on which date this sale offering will be suspended.

SUMMARY: The following-described lands have been examined and through the public-supported land use planning process have been determined to be suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976, at no less than fair market value as determined by an appraisal:

Parcel	Legal description	Sale type	Fair market value
I-23540	T. 12S., R. 40E B.M. Sec. 15, S½NW¼ (80 acres)	Direct	$4,000
I-23793	T. 12S., R. 40E., B.M. Sec. 15, SE¼SE¼ Sec. 22, NE¼NE¼ (80 acres)	Competitive	4,000
I-20354	T. 4S., R. 31E., B.M. Sec. 28, SE¼SW¼ Sec. 33, NE¼NW¼ (80 acres)	Competitive	6,000
I-20355	T. 4S., R. 31E., B.M. Sec. 27 NW¼NW¼ (40 acres)	Competitive	3,000
I-23363	T. 4S., R. 31E., B.M. Sec. 31, W½NW¼ (80 acres)	Competitive	3,000

When patented, the lands will be subject to the following reservations:

Parcel	Reservations
I-23540	Ditches and canals, all minerals, Grazing Lease #3905 expiring 2/28/96 held by Warren B. Fox.
I-223793	Ditches and canals, all minerals, Grazing Lease #3905 expiring 2/28/96 held by Warren B. Fox.
I-20354	Ditches and canals, oil and gas to U.S., Grazing Lease #3397 expiring 12/5/88 held by Paul Muirbrook.
I-20355	Ditches and canals, oil and gas to U.S., Grazing Lease #3397 expiring 12/5/88 held by Paul Muirbrook, Road Right-of-Way in conjunction with Bingham County Road Network.
I-23363	Ditches and canals, oil and gas to U.S., Road Right-of-Way in conjuction with Bingham County Road Network

Continued use of the land by valid right-of-way holders is proper subject to the terms and conditions of the grant. Administrative responsibility previously held by the United States will be assumed by the patentee.

The previously-described lands are hereby segregated from appropriation under the public land laws, including the mining laws, for a period of 270 days or until patent is issued, whichever comes first.

Sale Procedures

Sale parcel I-23793, I-20354, I-20355, and I-23363 will be sold by competitive

bidding procedures as follows: A sealed bid must be submitted in person or by mail prior to the date and time of sale to the Pocatello Resource Area Office located in the Federal Building, Room 172, 250 South 4th Avenue, Pocatello, Idaho 83201. Bids must be sealed in an envelope with the envelope specifying the serial number and the sale date in the lower left hand corner (i.e. "Sealed bid-public land sale I–23793—June 30, 1987"). If two or more valid sealed bids are received for the same amount and are the high bid, a supplemental bidding of the high bidders will be held.

Sale parcel I–23540 is being offered directly to Warren B. Fox because of his past use of the land and his ownership of the land surrounding the parcel. Should Mr. Fox fail to submit a bid by the date of sale, the parcel will be sold by competitive procedures as described in the previous paragraph.

Bids must be submitted for no less than fair market value. A thirty percent (30%) deposit must accompany each bid. The deposit must be paid by certified check, money order, bank draft or cashier's check. In addition, bids for parcels I–20354, I–20355 and I–23363 must be accompanied by an additional $50 mineral conveyance processing fee. Bids will be rejected if accompanied by a personal check. The successful bidder will be given 180 days from the date of sale to pay the balance of the purchase price.

SUPPLEMENTARY INFORMATION: Detailed information concerning conditions of the sale can be obtained by contacting Debbie Kovar at (208) 236–6860 or Barabara Klingenberg at (208) 529–1020.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the asbsence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: April 22, 1987.

Lloyd H Ferguson,

District Manager.

[FR Doc. 87–9804 Filed 4–29–87; 8:45 am]

BILLING CODE 4310–GG–M

[NV–040–07–4212–14; N–46060]

Nevada; Realty Action; Direct Sale of Public Land in White Pine County

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action. Direct sale public land, White Pine County.

SUMMARY: The following described land has been found suitable for direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value of $14,400. The lands will not be offered for sale until 60 days after publication of this notice in the **Federal Register**.

Mount Diablo Meridian, Nevada

T. 17 N., R. 63 E.,
Sec. 33, E½SE¼NE¼, SE¼NE¼NE¼, S½NE¼NE¼NE¼;
Sec. 34, W½SW¼NW¼, SW¼NW¼NW¼, S½NW¼NW¼NW¼, W½E½SW¼NW¼;

The land contains approximately 80 acres and is located 2½ miles north of the city of Ely.

The lands will be offered for sale to the city of Ely to allow for development of a new sanitary landfill. The present landfill is nearing the point of maximum desirable utilization. Conveyance of the available mineral estate having no known mineral value will occur simultaneously with the sale of the lands under section 209 of the aforementioned Act of 1976. Acceptance of the direct sale offer will constitute an application for conveyance of those mineral estates. A $50 nonrefundable fee for the available mineral estates must accompany the purchase money. In addition, the cost of publishing this notice in the **Federal Register** and in the local newspaper must be paid by the purchaser before patent may be issued. Failure to submit the purchase money for the land, the aforementioned filing fee, and the publishing costs within the timeframe specified by the authorized officer (43 CFR 2710.0–5(c)), shall result in cancellation of the sale.

The sale is consistent with the Bureau's planning system. The land is not needed for any resource program. After consulting with White Pine County government, the State of Nevada, and the general public, it has been determined that the public interest would best be served by offering the land at direct sale.

The patent when issued will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States (43 U.S.C. 945).

2. All geothermal resources and the oil and gas mineral deposits within said section 34.

A more detailed description of these reservations, which will be incorporated in the patent document, as well as conditions of the sale, is available for review at the Ely District Office.

The Bureau of Land Management may accept or reject any offer to purchase the offered lands, or withdraw any land or interest therein from sale; if, in the opinion of the authorized officer, the consummation of the sale would not serve the public interest or would be inconsistent with applicable law or regulation.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Hal M. Bybee,

Acting District Manager.

[FR Doc. 87–9805 Filed 4–29–87; 8:45 am]

BILLING CODE 4310–HC–M

[U–58080]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatment of oil and gas lease U–58080 for lands in San Juan County, Utah, was timely filed and required rentals and royalties accruing from December 1, 1986, the date of termination, have been paid.

The leesee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16–⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatment of lease U–58080 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective December 1, 1986 subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Orval L Hadley,

Chief, Branch of Lands and Minerals Operations

[FR Doc. 87–9800 Filed 4–29–87; 8:45 an]

BILING CODE 4310–DQ–M

[U-20893, U-55625]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas leases U–20893, and U–55625 for lands in San Juan County, Utah, was timely filed and required rentals and royalties accruing from December 1, 1986, the date of termination, have been paid.

The lessees have agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessees have reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of leases U–20893 and U–55625 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the leases, effective December 1, 1986 subject to the original terms and conditions of the leases and the increased rental and royalty rates cited above.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87–9801 Filed 4–29–87; 8:45 am]

BILLING CODE 4310–DQ–M

California; Public Review Period for USGS/USBM "Mineral Survey Reports" Prepared for BLM Wilderness Study Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The California, Bureau of Land Management (BLM), is requesting the public to review combined U.S. Geological Survey (USGS) and U.S. Bureua of Mines (USBM) "Mineral Survey Reports" which have been or will be completed for Wilderness Study Areas (WSAs) preliminarily recommended suitable for inclusion into the National Wilderness System. If the public identifies a new interpretation of the data presented in the reports or submits new minerals data for consideration, the Bureua of Land Management will send these comments to USGS/USBM.

No suitability recommendations will be changed by BLM based on the public comments or on the results of the USSG/USBM mineral survey reports. However, significant new findings will be documented in the BLM "Wilderness Study Report", which will also be reviewed by the Secretary, the President, and by Congress before final decisions on wilderness are made.

Copies of the WSA mineral survey reports listed below can be reviewed in BLM offices in Sacremento, Ukiah, Susanville, Bakersfield, Riverside, Barstow, Ridgecrest, Needles, Palm Springs, and El Centro.

WSA No.	Name	USGS Report No.	Paper copy price from USGS
CDCA–122	Inyo Mtns.	Bull. 1708 A	2.75
CDCA–157/ CDCA–158	Little Lake Canyon/Owens Peak	Bull. 1708 B	2.50
CDCA–164	El Paso Mtns	Bull. 1708 C	3.25
CDCA–170	Golden Valley	Bull. 1708 D	3.25
CDCA–325	Palen/McCoy	Bull. 1710 A	3.50

Reports available for review in BLM offices will not be available for sale or removal from the office. The following address is where copies of these reports may be purchased: Books and Open-File Report Section, Western Distribution Branch, U.S Geological Survey, Box 25425, Federal Center, Denver, CO 80225, (303) 236–7476.

DATE: New Information will be accepted on the reports enumerated in this notice until August 28, 1987.

ADDRESS: Send information on reports prepared for California Desert (CDCA) WSAs to: District Manager, California Desert District Office, 1695 Spruce Street, Riverside, California 92507.

FOR FURTHER INFORMATION CONTACT: Reginald E. Reid or Robert M. Anderson, BLM, California State Office, Division of Mineral Resources, Federal Office Building, 2800 Cottage Way, Room E–2727, Sacramento, California 95825 (916) 978–4735.

SUPPLEMENTARY INFORMATION: Section 603 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2785, directed the Secretary of Interior to inventory lands having wilderness characteristics as described in the Wilderness Act of September 3, 1964, and from time to time report to the President his recommendations as to the suitability or non-suitability of each area for preservation as wilderness. The USGS and USBM are charged with conducting mineral surveys for areas that have been preliminarily recommended suitable by BLM for inclusion into the wilderness system, to determine the mineral values, if any, that may be present is such areas.

There are about 6.9 million acres of Wilderness Study Areas identified by BLM in California, of which about 2.3 million acres have been preliminarily recommended suitable. To date, 28 combined mineral survey reports have been completed by the USGS/USBM. Approximately 23 reports will be completed in calender year 1987 and 18 reports in calender year 1988.

To ensure that all available minerals data are considered by Congress prior to making its final wilderness suitability decisions, the State Director, California is providing this public review and comment period. Usually there is a one to two year lag time between actual field work and final printing of a mineral survey report. New information may have been collected by the public during this lag time or the public may have a new interpretation of the data presented in the mineral survey reports. Any new data or new interpretations of data in the reports will be considered for its relevance and validity by the Bureau of Land Management. Significant new minerals data or new interpretations of the minerals data will be forwarded to the USGS and USBM for thier information.

The Information requested from the public via this invitation is not limited to any specific energy or mineral resource. Comments should be provided in writing and should be as specific as possible and include:

1. The name and number of the subject Wilderness Study Area and USGS/USBM Mineral Survey Report.
2. Mineral(s) of interest.
3. A map or land description by legal subdivision of the public land surveys or protracted surveys showing the specific parcel(s) of concern within the subject Wilderness Study Area.
4. Information and documents that depict the new data or reinterpretation of data.
5. The name, address, and phone numer of the person who may be contacted by technical personnel of the BLM, USGS, or USBM assigned to review the information.

Geologic maps, cross sections, drill hole records and sample analyses, etc. should be included. Published literature and reports may be cited. Each comment should be limited to a specific

Wilderness Study Area. All information submitted and *marked confidential* will be treated as proprietary data and will not be released to the Public without consent.

Ed Hastey,

State Director.

[FR Doc. 87-9807 Filed 4-29-87; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Columbia Gas Development Corp.; Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document DOCD).

SUMMARY: Notice is hereby given that Columbia Gas Development Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 2549, Block 507, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for 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 April 20, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that is is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 22, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-9754 Filed 4-29-87; 8:45 am]

BILLING CODE 4310-MR-M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations; Proposed Contractual Actions Pending Through June 1987

Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), and to § 426.20 of the rules and regulations published in the **Federal Register** December 6, 1983, Vol. 48, page 54785, the Bureau of Reclamation will publish notice of proposed or amendatory repayment contract actions or any contract for the delivery of irrigation water in newspapers of general circulation in the affected area at least 60 days prior to contract execution. The Bureau of Reclamation announcement of irrigation contract actions will be published in newspapers of general circulation in the areas determined by the Bureau of Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshop, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation requirements do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. The Secretary or the district may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act if the Bureau determines that the contract action may or will have "significant" environmental effects.

Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the **Federal Register** February 22, 1982, Vol. 47, page 7763, a tabulation is provided below of all proposed contractual actions in each of the six Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during April, May, or June of 1987. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be invovled. The indentity of the approving officer, and other information pertaining to a specific contract proposal, may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Individual notices of intent to negotiate, and other appropriate announcements, are made in the **Federal Register** for those actions found to have widespread public interest. When this is the case, the date of puiblication is given.

Acronym Definitions Used Herein

(FR) Federal Register
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CAP) Central Arizona Project
(CVP) Central Valley Project
(P–SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act

Pacfic Northwest Region

Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, ID 83724, telephone (208) 334–1961.

1. Four Irrigation Districts and the U.S. Forest Service, Boise Project, Idaho-Oregon; Irrigation repayment contracts, 23,000 acre-feet of storage in Arrowrock Reservoir, formerly reserved for the Hillcrest Unit under a 1921 contract which has been terminated; FR notice published July 14, 1986, Vol. 51, page 25406.

2. Cascade Reservoir Water Users, Boise Project, Idaho; Repayment contracts for irrigation and municipal and industrial water; 59,721 acre-feet of stored water in Cascada Reservior.

3. Brewster Flat ID, Chief Joseph Dam Project, Washington; amendatory repayment contract; land reclassification of approximately 360 acres to irrigable; repayment obligation to increase accordingly.

4. Indivial Irrigators, M&I, and Miscellaneous Water Users, Pacific Northwest Region, Idaho, Oregon, and

Washington; Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

5. Rogue River Basin water users, Rogue River Basin Project, Oregon: Water service contracts; $5 per acre-foot or $50 minimum per annum, terms up to 40 years.

6. Willamette Basin water users, Willamette Basin Project, Oregon: Water service contracts; $1,50 per acre-foot or $50 minimum per annum, terms up to 40 years.

7. Irrigation Districts and Similar Water User Entities; Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

8. Fifty-three Palisades Reservoir Spaceholders, Minidoka Project, Idaho-Wyoming, contract amendments to extend term for which contract water may be subleased to other parties.

9. South Columbia Basin Irrigation District, Columbia Basin Project, Washington; Supplements repayment contract for Irrigation Block 24; 1,892 irrigable acres.

10. City of Boise, Boise Project, Idaho; M&I water service contract; 340 acre-feet annually of storage in Anderson Ranch Reservoir for a term of up to 40 years.

11. Douglas County, Galesville Project, Oregon; SRPA replacement and cost escalation loan repayment contract; $1,000,000 proposed escalation in loan obligation.

12. City of Cle Elum, Yakima Project, Washington; Amendatory or replacement M&I water service contract; 2,200 acre-feet (1,350 gallons per minute) annually for a term of up to 40 years.

13. Three irrigation districts, Flathead Indian Irrigation Project; repayment of costs associated with rehabilitation of irrigation facilities.

14. Baker Valley Irrigation District, Baker Project, Oregon; Irrigation water service contracts on a surplus interruptible basis to serve up to 13,000 acres; sale of excess capacity in Mason Reservoir (Phillips Lake) for a term of up to 40 years.

15. Crooked River Project, Oregon; Repayment or water service contracts with several individuals for a total of approximately 1,100 acre-feet of project water; contract terms up to 40 years for the purpose of supplying water under the project water right held by the United States.

Mid-Pacific Region

Bureau of Reclamation (Federal Office Building), 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 978–5030.

1. 2047 Drain Water Users Association, CVP, California: Water right settlement contract; FR notice published July 25, 1979, Vol. 44, Page 43535.

2. Tuolumne Regional Water District, CVP, California: Water service contract; 3,200 acre-feet from New Melones Reservoir.

3. Calaveras County Water District, CVP, California: Water service contract; 400 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

4. Individual irrigators, M&I, and miscellaneous water users, Mid-Pacific Region, California, Oregon, and Nevada: Temporary (interim) water service contracts for available project water for irrigation, M&I or fish and wildlife purposes providing up to 10,000 acre-feet of water annually for terms up to 5 years; Temporary Warren Act contracts to wheel nonproject water through project facilities for terms up to 1 year; Long-term contracts for similar service for up to 1,000 acre-feet of water annually.

5. Friant-Kern Canal Contractors, Friant-Kern Unit, CVP, California: Renewal of existing long-term water service contracts with numerous contractors on the Friant-Kern Canal whose contracts expire 1989–1995. Water quantities in existing contracts range from 1,200 to 175,440 acre-feet.

6. South San Joaquin ID and Oakdale ID, CVP, California: Operating agreement for conjunctive operation of New Melones Dam and Reservoir on the Stanislaus River; FR notice published June 6, 1979, Vol. 44, page 32483.

7. San Luis Water District, CVP, California: Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

8. City of Avenal, CVP, California: Amendment of existing water service contract to provide for furnishing project power to city canalside relift facilities and change the point of diversion.

9. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

10. United Water Conservation District, SRPA, California: Loan repayment contract, $18,730,000 proposed obligation.

11. State of Hawaii, Molokai Project, SRPA: Contract amendment to provide for use of facilities for M&I purposes.

12. State of California, CVP, California: Contract(s) for, (1) sale of interim water to the Department of Water Resources for use by the State Water Project Contractors, and (2) acquisition of conveyance capacity in the California Aqueduct for use by the CVP, as contemplated in the Coordinated Operations Agreement.

13. Pixley ID, SRPA, California: Loan repayment contract, $12,300,000 proposed obligation.

14. Madera ID, Madera Canal, CVP, California: Warren Act contract to convey and/or store nonproject Soquel water through project facilities.

15. Truckee-Carson ID and Sierra Pacific Power Company, Newlands Project, Nevada: Warren Act contract to wheel 9,500 acre-feet of nonproject water through project facilities.

16. Panoche Water District, CVP, California: Amendatory water service contract providing for change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

17. Solano Irrigation District, Solano Project, California: Amendatory loan repayment contract providing for reconveyance and M&I water supply delivery.

18. Shasta Dam Area Public Utilities District, CVP, California: Renewal of M&I water supply contract. Less than 6,000 acre-feet.

19. Grasslands Water District, CVP, California: Interim interruptible water service contract; 100,000 acre-feet of Project water in lieu of agricultural drainage water for waterfowl habitat.

20. U.S. Fish and Wildlife Service, CVP, California: Long-term contract for water supply for Federal refuge in Grasslands area of California.

21. City of Redding, CVP, California: Amendatory M&I water supply contract.

22. P-Canal Water Users Association, Klamath Project, California/Oregon: Agricultural water service contract, less than 20,000 acre-feet.

23. Washoe County Water Conservation District, Truckee Storage Project, Nevada: Repayment contract for the replacement of two needle valves at Boca Dam.

Upper Colorado Region

Bureau of Reclamation, P.O. Box 11568 (125 South State Street), Salt Lake City, UT 84147, telephone (801) 524–5435.

1. Individual irrigators, M&I, and miscellaneous water users, Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for

irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

a. The Benevolent and Protective Order of the Elks, Lodge No. 1747, Farmington, New Mexico: Navajo Reservoir water service contract; 20 acre-feet per year for municipal use; contract term for 40 years from execution.

b. Southern Union Gas Company: Navajo Reservoir water service contract; 50 acre-feet per year for industrial use; contract term for 40 years from execution.

2. Animas-La Plata Conservancy District, Animas-La Plata Project, Colorado: Repayment contract; 9,200 acre-feet per year for M&I use; 72,900 acre-feet per year for irrigation. Contract terms will be consistent with binding cost sharing agreement dated June 30, 1986.

3. La Plata Conservancy District, Animas-La Plata Project, New Mexico: Repayment contract; 16,000 acre-feet per year for irrigation. Contract terms consistent with binding cost sharing agreement, dated June 30, 1986.

4. San Juan Water Commission, Animas-La Plata Project, New Mexico: M&I repayment contract; 25,500 acre-feet per year. Contract terms consistent with binding cost sharing agreement, dated June 30, 1986.

5. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado: Repayment contract for 26,500 acre-feet per year for M&I use and 3,300 acre-feet per year for irrigation use. Contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement, in principle.

6. Ute Mountain Ute Tribe, Animas-La Plata Project, Colorado and New Mexico: Repayment contract; 6,000 acre-feet per year for M&I use in Colorado; 25,800 acre-feet per year for irrigation use in Colorado; 800 acre-feet per year for irrigation use in New Mexico. Contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement, in priniciple.

7. Navajo Indian Tribe, Animas-La Plata Project; New Mexico: Repayment contract for 7,600 acre-feet per year for M&I use. Contract terms to be consistent with binding cost sharing agreement and water rights settlement agreement, in principle.

8. Grand Valley Water Users Association, Orchard Mesa Irrigation District, Grand Valley Project, Colorado: Contract to continue operation and maintenance of Grand Valley powerplant.

9. State of Wyoming, Seedskadee Project, Wyoming: One funding agreement for the repayment of Wyoming's share of reimbursable cost associated with the modification of Fontenelle Dam pursuant to the Reclamation Safety of Dams Amendments of 1984 (Pub. L. 98–404).

10. Upper Yampa Water Conservancy District, Colorado: Repayment contract to repay a loan of $4,478,000 for the construction of Stagecoach Dam and Reservoir pursuant to the SRPA of 1956, Pub. L. 84–984, as amended.

11. Ute Mountain Ute Indian Tribe, Dolores Project, Colorado: Repayment contract for 1,000 acre-feet per year for M&I use and 22,900 acre-feet per year for irrigation.

12. Emery County Water Conservancy District, Utah Power and Light, Emery County Water Project, Utah: New repayment contract with Utah Power and Light for the purchase of approximately 2,600 acre-feet of project water; amendatory contract with Emery County Water Conservancy District relieving them of their repayment obligation for the 2,600 acre-feet of project water.

13. Currant Creek Irrigation Company, Central Utah Water Conservancy District, Bonneville Unit, Central Utah Project, Utah: Option, Operation, Maintenance and Exchange Agreement, which will allow the United States a perpetual use of Mona Dam and Reservoir, the right to exchange the irrigation company's water with project water, and to modify the company's existing canal.

14. Three separate contracts with (1) Tri-County Water Conservancy District, (2) Menoken Water Company, and (3) Chipeta Water Company, Lower Gunnison Basin Unit, Colorado: Provides for funding, construction, modification, operation and maintenance of each entity's domestic water system.

15. Uinta Water Conservation District, Jensen Unit, Central Utah Project, Utah: Amendatory repayment contract to reduce municipal and industrial water supply and corresponding repayment obligation.

Lower Colorado Region

Bureau of Reclamation, P.O. Box 427 (Nevada Highway and Park Street), Boulder City, NV 89005, telephone (702) 293–8536.

1. Amendment to Contract No. 176r–696 between the Bureau of Reclamation and the Department of the Army to increase the maximum amount of water delivered to the Yuma Proving Grounds from 55 acre-feet to 975 acre-feet, pursuant to the recommendation of the Arizona Department of Water Resources.

2. Agricultural and M&I water users, CAP, Arizona: Water service subcontracts; a certain percent of available supply for irrigation entities and up to 640,000 acre-feet per year for M&I use.

3. Southern Arizona Water Rights Settlement Act: Sale of up to 28,200 acre-feet per year of municipal effluent to the city of Tucson, Arizona.

4. Contracts with five agricultural entities located near the Colorado River in Arizona, Boulder Canyon Project (BCP): Water service contracts for up to 1,920 acre-feet per year total.

5. Gila River Indian Community, CAP, Arizona: Water service contract; contract for delivery of up to 173,100 acre-feet per year.

6. Sunset Mobile Home Park, Boulder Canyon Project, Arizona: M&I water service contract for delivery of 30 acre-feet of water per year, pursuant to the recommendation of Arizona Department of Water Resources.

7. ID's and similar user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

8. Indian and non-Indian agricultural and M&I water users, CAP, Arizona: Contracts for repayment of Federal expenditures for construction of distribution systems.

9. Water delivery contracts with the State of Arizona, the Bureau of Land Management, and several private entities which are in the process of being organized for a yet undetermined amount of Colorado River water for M&I use. The purpose of these contracts is to afford legal status to various noncontractual water users within the State of Arizona.

10. Contract with the State of Arizona for a yet undetermined amount of Colorado River water for agricultural use and related purposes on State-owned land.

11. Contract with 16 individual holders of miscellaneous present perfected rights to Colorado River water totalling 66 acre-feet, pursuant to the January 9, 1979, Supplemental Decree of the United States Supreme Court in *Arizona* v. *California* (439 U.S. 419).

12. County of San Bernardino, San Bernardino, California: Repayment contract for $13.4 million SRPA loan.

13. Contracts for delivery of surplus water from the Colorador River, when available, with Emilio Soto and Sons, for 1,836 acre-feet per year; Kennedy Livestock, for 480 acre-feet per year; and the Metropolitan Water District of

Southern California, for 180,000 acre-feet per year.

14. Ramona Municipal Water District, Ramona, California; Repayment contract for $6.8 million SRPA escalation loan.

15. Amendatory contract with the Central Arizona Water Conservation District to increase the district's CAP repayment ceiling and to update other provisions of the contract.

16. Contract with Maricopa-Stanfield and Central Arizona Irrigation and Drainage Districts to establish a Santa Rosa Canal Administrative committee and to transfer operation and maintenance of the canal to Maricopa-Stanfield, CAP, Arizona.

17. Contract with the Imperial Irrigation District and/or the Coachella Valley Water District providing for exchange of up 10,000 acre-feet of water per year from a well field to be constructed adjacent to the All-American Canal (AAC) for an equivalent amount of Colorado River water and for operation and maintenance of the well field, Lower Colorado Water Supply Project (LCWSP), California.

18. Water service and repayment contracts with nonagricultural users in California for consumptive use of up to 10,000 acre-feet of Colorado River water per year in exchange for an equivalent amount of water to be pumped into the AAC from a well field to be constructed adjacent to the canal, LCWSP, California.

Southwest Region

Bureau of Reclamation, Commerce Building, Suite 201, 714 South Tyler, Amarillo, TX 79101, telephone (806) 378–5430.

1. For Cobb Reservoir Master Conservancy District, Washita Basin Project, Oklahoma: Amendatory repayment contract to convert, 4,700 acre-feet of irrigation water to M&I use.

2. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma: Amendatory repayment contract for remedial work.

3. Vermejo Conservancy District, Vermejo Project, New Mexico: Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Pub. L. 96–550.

4. Hidalgo County Irrigation District No. 1, Lower Rio Grande Valley, Texas; Supplemental SRPA loan contract for approximately $13,205,000. The contracting process is dependent upon final approval of the supplemental loan report.

5. ID's similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform with the Reclamation Reform Act of 1982 (Pub. L. 97–293).

6. Rio Grande Water Conservation District, Alamosa, Colorado: Contract for the district to be the vender of the Closed Basin Division, San Luis Valley Project, surplus water if available.

7. Carlsbad ID, Carlsbad Project, New Mexico; Repayment contract for the costs incurred by the United States for replacing the needle valves at Fort Summer Dam.

8. Conejos Water Conservancy District, San Luis Valley Project, Colorado: Amendatory contract to place OM&R costs on a variable basis commensurate with the availability of project water.

9. Arbuckle Master Conservancy District, Arbuckle Project, Oklahoma: Contract for the repayment of costs incurred by the United States for the construction of the Sulphur, Oklahoma, pipeline and pumping plant (if constructed).

10. A short-term water contract with the Conejos Water Conservancy District. San Luis Valley Project, Colorado, for the sale of water during the 1987 irrigation season.

11. Harlingen Irrigation District, Cameron County, Texas—Amend the existing repayment contract to provide for the collection of interest charges on all interest-bearing project purposes pursuant to the Small Reclamation Projects Act.

12. Town of Bernalillo, New Mexico, San Juan-Chama Project, Colorado-New Mexico—Negotiate a repayment contract with the town of Bernalillo for a municipal water supply of 400 acre-feet of water from the San Juan-Chama Project in New Mexico.

13. Department of Energy, San Juan-Chama Project, Colorado-New Mexico—Amend the existing contract to increase the ceiling on the operation, maintenance, and replacement charges that may be paid by the Department of Energy in any one year.

Missouri Basin Region

Bureau of Reclamation, P.O. Box 36900, Federal Building, 316 North 26th Street, Billings, Montana 59107–6900, Telephone (406) 657–6413.

1. Individual irrigators, M&I, and miscellaneous water users, Missouri Basin Region, Montana, Wyoming, North Dakota, South Dakota, Colorado, Kansas, and Nebraska: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Nokota Company, Lake Sakakawea, P–SMBP, North Dakota: Industrial water service contract; up to 16,800 acre-feet of water annually; FR notice published May 5, 1982, Vol. 47, Page 19472.

3. Fort Shaw ID, Sun River Project, Montana: R&B loan repayment contract; up to $1.5 million.

4. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97–293).

5. Oahe Unit, P–SMBP, South Dakota: Cancellation of master contract and participating and security contracts in accordance with Pub. L. 97–293 with South Dakota Board of Water and Natural Resources and Spink County and West Brown Irrigation Districts.

6. Owl Creek ID, Owl Creek Unit, P–SMBP, Wyoming: Amendatory water service contract to reflect water supply benefits being received from Anchor Reservoir.

7. Almena ID No. 5, Almena Unit, P–SMBP, Kansas: Deferment of repayment obligation for 1986 and 1987.

8. Almena Irrigation District No. 5, Almena Unit, P–SMBP, Kansas: Irrigation water service and repayment contract amendment to adjust payment due to reduced water supply, $576,090 outstanding.

9. Corn Creek ID and Earl Michael, Glendo Unit, P–SMBP, Wyoming, and Nebraska: Irrigation contracts.

10. Webster ID No. 4, Webster Unit, P–SMBP, Kansas: Irrigation water service and repayment contract amendment to adjust payment due to reduced water supply, $970,816 outstanding.

11. Webster Irrigation District No. 4, Webster Unit, P–SMBP, Kansas: Deferment of repayment obligation for 1986 and 1987.

12. Green Mountain Reservoir, Colorado-Big Thompson Project: Proposed contract negotiations for sale of water from the marketable yield to water users within the Colorado River Drainage of Western Colorado.

13. Ruedi Reservior, Fryingpan-Arkansas Project, Colorado; Second proposed contract negotiations for sale of water from the regulatory capacity of Ruedi Reservoir

14. Lower South Platte Water Conservancy District, Central Colorado Water Conservancy District, and the Colorado Water Resources and Power Development Authority, Narrows Unit, P–SMBP, Colorado; Water service contracts for repayment of costs and cost sharing agreement.

15. Kirwin ID No. 1, Kirwin Unit, P–SMBP, Kansas; Deferment of repayment obligation for 1986.

16. Kirwin ID No. 1, Kirwin Unit, P–SMBP, Kansas; Irrigation water service and repayment contract and Emergency Drought Act loan contract amendment to adjust payments due to reduced water supply, $886,231 outstanding.

17. Fryingpan-Arkansas Project, Colorado; East Slope Storage System consisting of Pueblo, Twin Lakes, and Turquoise Reservoir; Contract negotiations for temporary and long-term storage and exchange contracts.

18. Twin Loups Irrigation District, Pick-Sloan Missouri Basin Program; Amend repayment contract to include increased project construction cost and adjust payments to full current payment capacity.

19. Cedar Bluff Irrigation District No. 6 and the State of Kansas, Cedar Bluff Unit, P–SMBP, Kansas; negotiate contract with the State of Kansas for use of all or part of the conservation pool of Cedar Bluff Reservoir for recreation, and fish and wildlife purposes for payment locations and within time limits set forth in the advance public notices.

(5) All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

(6) Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they become available for review and comment.

(7) In the event modifications are made in the form of proposed contract, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the 60-day comment period is necessary. Factors which shall be considered in making such a determination shall include, but are not limited to: (i) The significance of the impact(s) of the modification and (ii) the public interest which has been expressed over the course of the negotiations. As a minimum, the Regional Director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Dated: April 23, 1987.

C. Dale Duvall,

Commissioner of Reclamation.

[FR Doc. 87–9792 Filed 4–29–87; 8:45 am]

BILLING CODE 4310–09–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–377 (Preliminary)]

Internal Combustion Engine Fork-Lift Trucks From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731–TA–377 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of internal combustion engine fork-lift trucks,[1] provided for in item 692.40 of the Tariff Schedules of the United States, that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by June 8, 1987.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: April 22, 1987.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–523–1793), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–523–0161.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on April 22, 1987, by Hyster Company of Portland, OR, a U.S. producer of internal combustion engine fork-lift trucks, the Independent Lift Truck Builders Union, the International Association of Machinists and Aerospace Workers, the International Union, Allied Industrial Workers of America (AFL–CIO), and the United Shop and Service Employees.

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary ot the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on May 14, 1987, at the U.S. International Trade Commission Building, 701 E. Street NW., Washington, DC. Parties wishing to participate in the conference should contact Jim McClure (202–523–1793) not later than May 12, 1987, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within

[1] For purposes of this investigation, "internal combustion engine fork-lift trucks" include both assembled and not assembled, finished and not finished operator-riding fork-lift trucks powered by gasoline, propane, or diesel fuel internal combustion engines of off-the-highway types used in factories, warehouses, or transportation terminals for short-distance transport, towing, or handling of articles. In addition to these fork-lift trucks, the scope of the investigation is meant to include certain less than complete trucks where such trucks each comprise at least the frame, engine, transmission and drive axle.

which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before May 18, 1987, a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, Title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: April 24, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-9706 Filed 4-29-87; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-57 (Sub-No. 26X)]

Soo Line Railroad Co.; Abandonment Exemption in Waukesha, WI.

The Soo Line Railroad Company has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its 1.88-mile line of railroad between milepost 18.23 and milepost 20.11 in Waukesha, WI. Railway Labor Executives' Association seeks imposition of labor protective conditions.

Applicant has certified (1) that no local traffice has moved over the line for at least 2 years and that overhead traffic may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective June 1, 1987, (unless stayed pending reconsideration). Petitions to stay must be filed by May 11, 1987, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by May 20, 1987, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Larry D. Starns, General Attorney, Administrative Law and Contracts, Soo Line Building, Suite 1000, 105 South Fifth Street, Minneapolis, MN 55440.

If the notice of exemption contains false or misleading information, use of the exemption is void *ad initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: April 23, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-9759 Filed 4-29-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act in United States v. Ralph C. Medley, et al.

In accordance with Departmental policy, 28 CFR 50.7, and pursuant to section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9622(i), notice is hereby given that on April 2, 1987 a proposed Consent Decree in *United States* v. *Ralph C. Medley, et al.*, Civil Action No. 7:86-252-3, was lodged with the United States District Court for the District of South Carolina. The complaint in this CERCLA Section 107, 42 U.S.C. 9607, cost recovery action was filed on January 30, 1986 against Ralph C. Medley, Clyde Medley, Grace Medley, Barry Medley, Milliken & Company, Unisphere Chemical Corporation and National Starch and Chemical Corporation to recover from defendants all costs incurred and to be incurred by the United States in responding to the release or threatened release of hazardous substances from a waste disposal facility located in Cherokee County, South Carolina known as the Medley Farm Site. The complaint also seeks a declaratory judgment, pursuant to 28 U.S.C. 2201, that the named defendants are jointly and severally liable for all future response costs which may be incurred by the United States in connection with the site. The proposed Consent Decree ("Decree") provides that the Settling Defendants, Milliken & Company, Unisphere Chemical Corporation, National Starch and Chemical Corporation and Charles S. Tanner Co., ABCO Industries, Inc., BASF Corporation, Ethox Chemicals, Inc., Polymer Industries, a division of Morton-Thiokol, Inc. and Tanner Chemical Company reimburse, within 30 days of the entry of the decree, the United States $560,000 of the approximately $677,500 in past response costs, said sum representing approximately 83% of the total costs incurred to date. The defendants Ralph C. Medley, Clyde Medley, Grace Medley and Barry Medley are not parties to this proposed Consent Decree. The decree releases the Settling Defendants from civil liability only for reimbursement of response costs incurred by the United States at the Medley Farm site up to and including the date of the lodging of the decree but not from liability for any future response costs, including but not limited to, the costs of conducting a Remedial Investigation/Feasibility Study at the site or any future remedial action. The United States expressly reserves all claims, demands and causes of action, past or future, judicial or administrative, in law or equity, including but not limited to, cost recovery and injunctive relief and natural resource damages, against any person or entity, including the Settling Defendants, for matters not covered under the decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. The Department of Justice will consider any comments in determining whether or not to consent to the proposed settlement and may withdraw its consent to the proposed settlement if such comments disclose

facts or considerations which indicate that the proposed Consent Decree is inappropriate, improper or inadequate. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States v. Ralph C. Medley, et al.*, D.J. Ref. No. 90–11–3–104.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the District of South Carolina, Room 318, Federal Building, 300 East Washington Street, Greenville, South Carolina 29601 and the Office of the Regional Counsel, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Room 1521, U.S. Department of Justice, 9th and Pennsylvania Ave. NW., Washington, DC 20530. In requesting a copy, please enclose a check in the amount of $1.00 payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–8686 Filed 4–29–87; 8:45 am]

BILLING CODE 4410–01–M

[AAG/A Order No. 3–87]

Privacy Act of 1974; Modified System of Records

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a(e)(4) and (11), the Department of Justice, Federal Bureau of Investigation (FBI), is republishing the following system of records which was last published in the **Federal Register** on October 1, 1985 (50 FR 40065):

National Crime Information Center (NCIC), (JUSTICE/FBI–001).

The NCIC System is being republished to reflect several changes. Specifically, the FBI is amending the system by adding two new categories of individuals covered, and related records. Sections of the notice entitled "Categories of Individuals Covered by the System" and "Categories of Records in the System" have been revised to reflect the new categories. Corresponding changes have been made to the "Retrievability" and "Retention and Disposal" sections of the notice. Finally, the FBI is further amending the system by revising the "Routine Uses * * *" section to permit data exchanges with certain foreign governments.

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be given 30 days in which to comment on the routine use. In addition, the Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires 60 days in which to review the proposed changes. Therefore, the public, OMB, and the Congress are invited to submit written comments. Comments should be addressed to J. Michael Clark, Assistant Director, General Services Staff, Justice Management Division, Department of Justice, Room 6402, 601 D Street, NW., Washington, DC 20530. If no comments are received by June 29, 1987, the proposed changes will be implemented without further notice in the **Federal Register**.

Dated: April 24, 1987.

Harry H. Flickinger,

Acting Assistant Attorney General for Administration.

JUSTICE/FBI 001

SYSTEM NAME:

(NCIC). National Crime Information Center

SYSTEM LOCATIONS:

Federal Bureau of Investigation: J. Edgar Hoover Bldg., 10th and Pennsylvania Avenue NW., Washington, D.C. 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Wanted Persons: 1. Individuals for whom Federal warrants are outstanding.

2. Individuals who have committed or have been identified with an offense which is classified as a felony or serious misdemeanor under the existing penal statutes of the jurisdictions originating the entry and felony or misdemeanor warrant has been issued for the individual with respect to the offense which was the basis of the entry. Probation and parole violators meeting the foregoing criteria.

3. A "Temporary Felony Want" may be entered when a law enforcement agency has need to take prompt action to establish a "want" entry for the apprehension of a person who has committed, or the officer has reasonable grounds to believe has committed, a felony and who may seek refuge by fleeing across jurisdictionary boundaries and circumstances preclude the immediate procurement of a felony warrant. A "Temporary Felony Want" shall be specifically identified as such and subject to verification and support by a proper warrant within 48 hours following the initial entry of a temporary want. The agency originating the "Temporary Felony Want" shall be responsible for subsequent verification or re-entry of a permanent want.

4. Juveniles who have been adjudicated delinquent and who have escaped or absconded from custody, even though no arrest warrants were issued.

5. Individuals who have committed or have been identified with an offense committed in a foreign country, which would be a felony if committed in the United States, and for whom a warrant of arrest is outstanding and for which act an extradition treaty exists between the United States and that country.

6. Individuals who have committed or have been identified with an offense committed in Canada and for whom a Canada-Wide Warrant has been issued which meets the requirements of the Canada-U.S. Extradition Treaty, 18 U.S.C. 3184.

B. Individuals who have been charged with serious and/or significant offenses.

C. Missing Persons: 1. A person of any age who is missing and who is under proven physical/mental disability or is senile, thereby subjecting *himself* or others to personal and immediate danger.

2. A person of any age who is missing under circumstances indicating that his disappearance was not voluntary.

3. A person of any age who is missing and in the company of another person under circumstances indicating that his physical safety is in danger.

4. A person who is missing and declared unemancipated as defined by the laws of his state of residence and does not meet any of the entry criteria set forth in 1, 2, or 3 above.

D. Individuals designated by the U.S. Secret Service as posing a potential danger to the President of other authorized protectees.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Stolen Vehicle File: 1. Stolen vehicles. 2. Vehicles wanted in conjunction with felonies or serious misdemeanors. 3. Stolen vehicle parts, including certificates of origin or title.

B. Stolen License Plate File: 1. Stolen or missing license plate.

C. Stolen/Missing Gun File: 1. Stolen or missing guns. 2. Recovered gun, ownership of which has not been established.

D. Stolen Article File.

E. Wanted Person File: Described in Categories of individuals covered by the system: A. "Wanted Persons."

F. Securities File: 1. Serially numbered stolen, embezzled, counterfeited, missing securities.

2. "Securities" for present *purposes* of this file are currenty (e.g., bills, bank

notes) and those documents or certificates which generally are considered to be evidence or *debt* (e.g. bonds, debentures, notes) or ownership of property (e.g., common stock, preferred stock), and documents which represent subscription rights, warrants) and which are of those types traded in the securities exchanges in the United States, except for commodities futures. Also included are warehouse receipts, travelers checks and money orders.

G. Boat File.

H. Computerized Criminal History File: A cooperative federal-State program for the interstate exchange of criminal history record information for the purpose of facilitating the interstate exchange of such information among criminal justice agencies.

I. Missing Person File: Described in "Categories of individuals covered by the system: C. Missing Persons."

J. U.S. Secret Service Protective File: Described in "Categories of individuals covered by the system: D."

K. Identification records regarding persons enrolled in the United States Marshals Service Witness Security Program who have been charged with serious and/or significant offenses: Described in "Categories of Individuals Covered by the System: B."

L. Foreign Fugitive File: Identification data regarding persons who are fugitives from foreign countries, who are described in "CATEGORIES OF INDIVIDUALS COVERED BY SYSTEM: A. Wanted Persons, 5."

M. Canadian Warrant File: Identification data regarding Canadian wanted persons who are described in "CATEGORIES OF INDIVIDUALS COVERED BY SYSTEM: A. Wanted Persons, 6."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 28 U.S.C. 534; Department of Justice Appropriation Act, 1973, Pub. L. 92–544, 86 Stat. 1115, Securities Acts Amendment of 1975 Pub. L. 94–29, 89 Stat. 97; and Exec. Order No. 10450, 3 CFR (1974).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in NCIC files is exchanged with and for the official use of authorized officials of the Federal Government, the States, cities, penal and other institutions, *and certain foreign governments.* The data is exchanged through NCIC lines to Federal criminal justice agencies, criminal justice agencies in the 50 States, the District of Columbia, Puerto Rico, U.S. Possessions and U.S. Territories. Additionally, data contained in the various "want files," i.e., the stolen vehicle file, stolen license plate file, stolen missing gun file, stolen article file, wanted person file, securities file and boat file may be accessed by the Royal Canadian Mounted Police. Criminal history data is disseminated to non-criminal justice agencies for use in connection with licensing for local/state employment or other uses, but only here such dissemination is authorized by Federal or state statutes and approved by the Attorney General of the United States.

Data in NCIC files, other than the Computerized Criminal History File, is disseminated to (1) a nongovernmental agency or *subunit* thereof which allocates a substantial part of its annual budget to the administration of criminal justice, whose *regularly* employed peace officers have full police powers pursuant to state law and have complied with the minimum employment standards of governmentally employed police officers as specified by state statute; (2) a noncriminal justice governmental department of motor vehicle or driver's license registry established by a statute, which provides vehicles registration and driver record information to criminal justice agencies; (3) a governmental regional dispatch center, established by a state statute, resolution, ordinance or Executive order, which provides communications services to criminal justice agencies; and (4) the national Automobile Theft Bureau, a nongovernmental nonprofit agency which acts as a national clearinghouse for information on stolen vehicles and offers free assistance to law enforcement agencies concerning automobile thefts, identification and recovery of stolen vehicles.

Disclosures of information from this system, as described above, are for the purpose of providng information to authorized agencies to facilitate the apprehension of fugitives, the location of missing persons, the location and/or return of stolen property, or similar criminal justice objectives.

Information on missing children, missing adults who were reported missing while children, and unidentified living and deceased persons may be disclosed to the National Center for Missing and Exploited Children (NCMEC). The NCMEC is a nongovernmental, nonprofit, federally funded corporation, serving as a national resource and technical assistance clearinghouse focusing on missing and exploited children. Information is disclosed to NCMEC to assist it in its efforts to provide technical assistance and education to parents and local governments regarding the problems of missing and exploited children, and to operate a nationwide missing children hotline to permit members of the public to telephone the Center from anywhere in the United States with information about a missiong child.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf whom the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records Administration: A record from a system of records may be disclosed as a routine use to the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the NCIC system is stored electronically for use in a computer environment.

RETRIEVABILITY:

On-line access to data in NCIC is achieved by using the following search descriptors. 1. Vehicle file:

(a) Vehicle identification number:

(b) License plate number:

(c) NCIC number (unique number assigned by the NCIC computer to each NCIC record). 2. License Plate file: (a) License plate number: (b) NCIC number. 3. Gun fule: (a) Serial number of gun: (b) NCIC number: 4. Article File: (a) Serial number of article: (b) NCIC number. 5. Wanted Person File U.S. Secret Service Protective File, *Foreign Fugitive File, and Canadian Warrant File:* (a) Name and one of the following numerical identifiers, date of birth, FBI Number (number assigned by the Federal Bureau

of Investigation to an arrest fingerprint record). Social Security number (It is noted the requirements of the Privacy Act with regard to the solicitation of Social Security numbers have been brought to the attention of the members of the NCIC system). Operator's license number (driver's number). Miscellaneous identifying number (military number or number assigned by Federal, state, or local authorities to an individual's record). Origination agency case number. (b) Vehicle or license plate known to be in the possession of the wanted person: (c) NCIC number (unique number assigned to each NCIC record). 6. Securites File. (a) Type, serial number, denomination of security: (b) Type of security and name of owner of security; (c) Social Security number of owner of security; (d) NCIC number 7. Boat File: (a) Registration document number: (b) Hull serial number: (c) NCIC number. 8. Computerized Criminal History File: (a) Name, sex, race and date of birth: (b) FBI number: (c) State identification number; (d) Social Security number; (e) Miscellaneous number. 9. Mission Person File—Same as "Wanted Person" File.

SAFEGUARDS:

Data stored in the NCIC is documented criminal justice agency information and access to that data is restricted to duly authorized criminal justice agencies. The following security measures are the minimum to be adopted by all criminal justice agencies having access to the NCIC. Computerized Criminal History File. These measures are designed to prevent unauthorized access to the system data and/or unauthorized use of data obtained from the computerized file.

1. Computer Center. a. The criminal justice agency computer site must have adequate physical security to protect against any unauthorized personnel gaining access to the computer equipment or to any of the stored data. b. Since personnel at these computer centers can access data stored in the system, they must be screened thoroughly under the authority and supervision of an NCIC control terminal agency. (This authority and supervision may be delegated to responsible criminal justice agency pesonnel in the case of a satellite computer center being serviced through a stated control terminal agency.) This screening will also apply to non-criminal justice maintenance or technical personnel. c. All visitors to these computer centers must be accompanied by staff personnel at all times. d. Computers having access to the NCIC must have the proper computer instructions written and other built-in controls to prevent criminal history data from being accessible to any terminals other than authorized terminals. e. Computers having access to the NCIC must maintain a record of all transactions against the criminal history filed in the same manner the NCIC computer logs all transactions. The NCIC identifies each specific agency entering or receiving information and maintains a record of those transactions. This transaction record must be monitored and reviewed on a regular basis to detect any possible misuse of criminal history data. f. Each State Control terminal shall build its data system around a *central* computer, through which each inquiry must pass for screening and verification. The configuration and operation of the center shall provide for the integrity of the data base.

2. Communications: a. Lines/channels being used to transmit criminal history information must be dedicated solely to criminal justice use, i.e., there must be no terminals belonging to agencies outside the criminal justice system sharing these lines/channels. b. Physical security of the lines/channels must be protected to guard against clandestine devices being utilized to intercept of inject system traffic.

3. Terminal Devices Having Access to NCIC: a. All agencies having terminals on the system must be requred to physically place these terminals in secure locations within the authorized agency. b. The agencies having terminals with access to criminal history must have terminal operators screened and restrict access to the terminal to a minimum number of authorized employees. c. Copies of criminal history data obtained from terminal devices must be afforeded security to prevent any unauthorized access to or use of the data. d. All remote terminals on NCIC Computerized Criminal History will maintain a hard copy of computerized criminal history inquires with notations of individual making request for record (90 days).

RETENTION AND DISPOSAL:

Unless otherwise removed, records will be retained in file as follows:

1. Vehicle File. a. Unrecovered stolen vehicle records (including snowmobile records) which do not contain vehicle identification numbers (VIN) therein, will be purged from file 90 days after the end of the license plate's expiration year as shown in the record. Unrecovered stolen vehicle records (including snowmobile records) which contain VIN's will remain in file for the year of entry plus 4. Unrecovered vehicles wanted in conjunction with a felony will remain in file for 90 days after entry. In the event a longer retention period is desired, the vehicle must be reentered. c. Unrecovered stolen VIN plates, certificates or origin or title, and serially numbered stolen vehicles engines or transmissions will remain in file for the year of entry plus 4.

2. License Plate file: Unrecovered stolen license plates not associated with a vehicle will remain in file for one year after the end of the plate's expiration year as shown in the record.

3. Gun file: a. Unrecovered weapons will be retained in file for an indefinite period until action is taken by the originating agency to clear the record. b. Weapons entered in file as "recovered" weapons will remain in file for the balance of the year entered plus 2.

4. Article file: Unrecovered stolen articles will be retained for the balance of the year entered plus one year.

5. Wanted Person File: Person not located will remain in file indefinitely until action is taken by the originating agency to clear the record (except "Temporary Felony Wants", which will be automatically removed from the file after 48 hours).

6. Securities File: Unrecovered, stolen, embezzled, counterfeited or missing securities will be retained for the balance of the year entered plus 4, except for travelers checks and money orders, which will be retained for the balance of the year entered plus 2.

7. Boat File: Unrecovered stolen boats will be retained in file for the balance of the year entered plus 4.

8. Missing Persons File: Will remain in the file until the individual is located or, in the case of unemancipated persons, the individual reaches the age of emancipation as defined by laws of his state.

9. Computerized Criminal History File: When an individual reaches age of 80.

10. U.S. Secret Service Protective File: Will be retained until names are removed by the U.S. Secret Service.

11. Foreign Fugitive File: Person not located will remain in file indefinitely until action is taken by the originating agency to clear the record.

12. Canadian Warrant File: Person not located will remain in file indefinitely until action is taken by the originating agency to clear the record.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, J. Edgar Hoover F.B.I. Building, 9th and Pennsylvania Avenue NW., Washington, D.C. 20535.

NOTIFICATION PROCEDURES:

Same as the above.

RECORD ACCESS PROCEDURE:

It is noted the Attorney General is exempting this system from the access and contest procedures of the Privacy Act. However, the following alternative procedures are available to requester. The procedures by which an individual may obtain a copy of his computerized Criminal History are as follows:

If an individual has a criminal record supported by figerprints and that record has been entered in the NCIC CCH File, it is available to that individual for review, upon presentation of appropriate identification, and in acordance with applicable State and Federal administrative and statutory regulations.

Appropriate identification includes being fingerprinted for the purpose of insuring that he is the individual that he purports to be. The record on file will then be verified as his through comparison of fingerprints.

Procedure 1. All requests for review must be made by the subject of his record through a law enforcement agency which has access to the NCIC CCH File. That agency within statutory or regulatory limits can require additional identification to assist in securing a positive identification.

2. If the cooperative law enforcement agency can make an identification with fingerprints previously taken which are in file locally and if the FBI identification number of the individual's record is available to that agency, it can make an on-line inquiry of NCIC to obtain his record on-line or, if it does not have suitable equipment to obtain an on-line response, obtain the record from Washington, D.C. by mail. The individual will then be afforded the opportunity to see that record.

3. Should the cooperating law enforcement agency not have the individual's fingerprints on file locally, it is necessary for that agency to relate his prints to an existing record by having his identification prints compared with those already on file in the FBI or possibly, in the State's central identification agency.

CONTESTING RECORD PROCEDURES:

The subject of the requested record shall request the appropriate arresting agency, court, or correctional agency to initiate action necessary to correct any stated inaccuracy in his record or provide the information needed to make the record complete.

RECORD SOURCE CATEGORIES:

Information contained in the NCIC system is obtained from local, State, Federal and international criminal justice agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), (H), (e)(8) (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(3). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

[FR Doc. 87-9826 Filed 4-29-87; 8:45 am]

BILLING CODE 4410-02-M

Pollution Control, East Kentucky Beverage Co., Inc.; Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on March 11, 1987, a proposed consent decree in *United States* v. *East Kentucky Beverage Co., Inc.*, Civil Action No. C84-56, was lodged with the United States District Court for the Eastern District of Kentucky. The proposed Consent Decree provides that East Kentucky Beverage Co., Inc. will complete construction and upgrading of the company's wastewater treatment system in accordance with a schedule set forth in the decree; that the company will insure that the new system will achieve complete compliance with its NPDES permit by June, 1987; that the company will comply with interim effluent limitations; and that the company will pay a $100,000 civil penalty in settlement of the government's claims.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *East Kentucky Beverage Co., Inc.*, D.J. Ref. 90-5-1-1-2063.

The proposed decree may be examined at the office of the United States Attorney, P.O. Box 1440, Lexington, Kentucky 40501 and at the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, 9th and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-9751 Filed 4-29-87; 8:45 am]

BILLING CODE 4410-01-M

Pollution Control, Waste Management of Wisconsin, Inc.; Lodging of Consent Order Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed modification to a Consent Decree in *United States v. Waste Management of Wisconsin, Inc.*, Civil Action No. 86-C-0956, was lodged with the United States District Court for the Eastern District of Wisconsin. The proposed modification to the Consent Decree extends the deadlines for the completion of certain remedial measures for the control of fugitive dust emissions from the Omega Hills Landfill in Germantown, Wisconsin. The deadlines for sealing certain road shoulders and topsoiling and seeding certain areas are being extended due to ongoing sewer construction work by the Village of Germantown in the vicinity of the areas where control measures are required under the Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Waste Management of Wisconsin, Inc.*, D.J. reference # 90-5-2-1-912.

The proposed Consent Decree may be examined at the office of the United States Attorney, 330 Federal Building, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, at the Region V office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, 9th Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the

amount of $2.00 payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-9752 Filed 4-29-87; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notification Filed Pursuant to the National Cooperative Research Act of 1984; Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, et seq., Bell Communications Research, Inc. (hereinafter known as "Bellcore") has filed a written notification on behalf of Bellcore and TriQuint Semiconductor, Inc., (hereinafter known as "TriQuint") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties of the joint venture and (2) the nature and objectives of the joint venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 West Mount Pleasant Avenue, Livingston, New Jersey 07039.

TriQuint is an Oregon corporation with its principal place of business at Tektronix Industrial Park, Group 700, P.O. Box 4935, Beaverton, Oregon 97075.

Bellcore and Triquint entered into an agreement on February 26, 1987 to collaborate on research to better understand the applications for exchange and exchange access telecommunications services of advanced GaAs integrated circuit technology and to demonstrate feasibility of research concepts by experimental prototypes of such circuits.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87-9723 Filed 4-29-87; 8:45 am]

BILLING CODE 4410-01-M

Bureau of Justice Assistance

The Anti-Drug Abuse Act of 1986; Prison Capacity Program Guidelines

AGENCY: Bureau of Justice Assistance, Justice.

ACTION: Prison Capacity Program Guidelines.

SUMMARY: The Bureau of Justice Assistance of the Office of Justice Programs, U.S. Department of Justice is publishing this guideline to implement the pilot Prison Capacity Program authorized as part of the Anti-Drug Abuse Act of 1986 Sub-title J, section 1451(f) and Pub. L. 99-500. The proposed guideline describes a $2 million Prison Capacity Program with four components: An inventory of basic state approaches and strategies in dealing with prison capacity and correctional program delivery; solicitation of State requests for financial and technical assistance to meet a broad range of state-defined needs; solicitation of capability statements from private sector non-profit organizations able to provide a broad range of assistance on state correctional issues and of addressing the specific State needs; and finally, effective linkage by BJA and a national technical assistance contractor of State requests with private contractors capable of providing the specific assistance requested.

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I. Prison Capacity Program—Inventory of State Approaches and Strategies

Background

Pressures on prison capacity from expanding populations, public safety concerns, and issues associated with conditions of confinement confront numerous state governments. The dimensions of the problem are suggested by the following figures:

- As of the end of 1986 state prison populations were expected to exceed half a million prisoners with Federal offenders constituting in excess of forty four thousand;
- As of 1985 almost half of the nearly 230,000 jail inmates were convicted offenders, contrary to the traditional notion of jails being used for those on trial or awaiting trial or arraignment;
- The 694 state prisons in operation in mid-1984 provided an average of fifty seven square feet of living space per inmate in general and special housing, and confined these inmates to their housing units for an average of eleven hours per day;
- The total percentage increase in State and Federal prison populations since 1980 exceeds 65%;
- Sophisticated prison population projections suggest that the inmate populations in the prisons of some of the largest states will increase from 25% to 98% by 1995.

Thus, Governors and State legislators face difficult decisions about correctional philosophy, prison capacity, and the range of sentencing options that exist under state law.

A substantial expansion of prison and jail capacity was necessary to meet this recent growth, with 12% increases occurring in 1981 and 1982, and 9% in 1986. A recent survey showed $8 billion in ongoing or planned prison construction, including a $2.3 billion effort in California. While construction is a major ingredient, a range of options for significant groups of offenders needs to be considered.

A balanced approach between concern for public safety, incarceration, other criminal penalties and levels of supervision is essential to ensure the rational use of state corrections budgets. While this program is directed at state level concerns with prisons, it recognizes the inevitable linkage with more local concerns with jail capacity. Developing a comprehensive state corrections policy is a complex and difficult process.

Purpose and Objectives

The Bureau of Justice Assistance, in cooperation with the National Institute of Corrections, will complete an inventory of State corrections strategies, policy options and studies as a basis for assistance under this program. That survey will be completed within thirty days of the publication of this guideline. The inventory will examine the processes and procedures, studies and political implementation strategies of States that have already addressed correctional policy decisions, and will describe briefly the current situation in prisons in all remaining states. Assistance to be provided the states will be measured against this analysis of needs.

II. Prison Capacity Program—State Requests for Assistance

Background

Most states have already devoted considerable effort and funding to expand prison and jail bed spaces through additional construction or renovation. On a piecemeal basis many of these states have also considered individual crisis control mechanisms

and a limited range of alternative sanctions. Some states have attempted to take a comprehensive system approach by balancing state institutions with community corrections and structured sentencing proposals. Many of these options emanated from State policy commissions.

Among the processes and options recently adopted by a number of states are these:

California is actively considering establishing a "Blue Ribbon Commission on California's Prison Crisis" to undertake a comprehensive review of that state's criminal justice and corrections system.

Oregon is commencing an examination of the range of new correctional institutions required to meet that state's present and future needs for correctional sanctions.

Tennessee passed a Community Corrections Act which targets low-risk offenders for other safe sanctions in the community; it also established a Sentencing Commission to develop criminal code recodification and development of sentencing guidelines.

Louisiana has reevaluated probation through a Probation Enhancement Plan which sets limits on probation caseloads and requires offenders to pay probation fees; in addition, a state commission is reviewing state corrections policies and developing a range of alternatives.

South Carolina passed an Emergency Powers Act which allows the Corrections Division to operate within a designated capacity in its prison population; construction of three new facilities was later approved.

Goals/Objectives

This project will provide a broad range of technical assistance, training and financial support to state departments of corrections, state legislatures, and special policy commissions or task forces dealing with state prison capacity and alternatives. The Bureau of Justice Assistance will attempt to accommodate as many states as possible within the funds available ($2 million) while anticipating a wide range of requests for financial help associated with the specific tasks that a state needs accomplished.

Program Description

A wide range of activities could be supported based on the correctional planning stage at which the state finds itself, the sophistication of statistics and analyses, and the degree of political consensus on corrections policies.

Technical assistance and funding may be secured for a variety of planning purposes including: prison and/or jail population projections; planning for renovation and expansion of current maximum, medium, and minimum security prison space; other close supervision options such as intensive probation, electronic monitoring/surveillance, restitution centers and community supervision; review and improvements in risk assessment and other classification instruments; studies aimed at restructuring good-time systems; evaluation of experiments with early release; efforts to improve prisoner classification procedure; support for state policy groups examining prison capacity and alternative sanctions for sentenced inmates; education and consensus building among key public and private interest groups whose support is essential for implementation.

Grant Period

Sub-grants will be funded for a period of up to 18 months; the length of the period will accommodate state needs.

Award Amounts

It is the intention of the Bureau of Justice Assistance that the vast majority of the available funds will be directed to the States; however, $325,000 is set aside under this program for a national technical assistance coordinator to assist BJA in linking the State requests for aid with the available private sector capabilities.

Eligibility Criteria

Interested state or local governments or combinations thereof should submit a concept paper explaining the nature of the assistance required, plus a one-page summary budget. Selection criteria will include:

- The severity of prison/jail problems and the pressures on the state to deal with prison capacity problems (court orders, prison disturbances, press coverage, legislative action);
- The clarity and comprehensiveness of the justification for the assistance requested;
- The extent of technical or financial support sought, evaluated in terms of the nature and extent of the problem;
- The extent of documented support and interest from all levels and branches of government within the State.

An independent selection panel will screen concept papers and make recommendations on a competitive basis. Some weight will be given to geographical distribution of projects. The selected States will receive funds or technical assistance through linkage with private sector organizations identified jointly by BJA and the national contractor (see following).

Due Dates

Concept papers are due to BJA by July 15, 1987.

III. Prison Capacity Program—Private Sector Capability Statements

Background

A wide range of technical assistance will be required by States in dealing with prison capacity. Some States may require assistance in organizing a policy group, collecting corrections statistics, conducting architectural and site studies and developing accurate population projections. Other States may wish to use various techniques for planning. State legislative committees may inquire about prison construction, sentencing options or means to reform probation and parole. Specialized training sessions may be requested. A number of non-profit private consulting groups, organizations, firms and agencies provide such services across the United States.

Goals and Objectives

BJSA wishes to develop a file of such firms and organizations capable of providing assistance to State correctional agencies. Our interest is in organizations with a proven record as providers of State correctional services and policy assistance.

Program Description

To understand the range of assistance available to States from the private sector (e.g. prison population forecasts, facility management, techniques for achieving correctional standards, medical and educational standards implementation), BJA is requesting capacity and performance statements from consulting organizations with an established record of addressing State correctional problems.

Grant Period

Grants will not be made directly to private firms; rather awards will be made to States which may select from firms identified by BJA or from other sources. BJA will provide States with information concerning private organizations responding to this request for capability statements.

Eligibility Criteria

Private non-profit organizations should submit basic capability statements augmented by their record of consultations and services provided to State and local correctional agencies, a description of documents and work products produced, the record of implementation resulting from the work

done, and any evaluations and assessments of either the process or results achieved by that organization. Copies of these statements will be made available to interested States, financial, fiscal and other proprietary data is not required and need not be submitted.

Due Date

Capability statements are due to BJA by July 15, 1987.

IV. Prison Capacity Programs—Technical Assistance Coordination

Background

To establish a fully integrated prison capacity program, BJA will link and broker the kinds of technical assistance required from States applying for aid with the capability statements of national, regional and local organizations. To coordinate this technical assistance BJA will require a national technical assistance coordinator.

Goals/Objectives

This project will support one technical assistance coordinator for the Prison Capacity Program for a period of eighteen months. The technical assistance coordiantor would play three roles in the program: (1) The role of facilitator to state agencies or commissions in reviewing corrections policies and options; (2) the role of technical assistance broker in recommending and supporting specialized consultant services from private organizations; and (3) provide peer project assistance in obtaining expert guidance from states and other jurisdictions that have implemented exemplary correctional policy studies and analyses.

Program Description

This project will provide technical assistance for all States receiving grant funds under the program in matching state needs with private sector vendors providing the needed services.

The technical assistance coordinator should have an outreach capability to cover the full range of corrections policy planning and implementation, and familiarity with practitioners, model States and consultants working in the field. Ideally, the applicant would represent a consortium of consultant or professional organizations with experience in a variety of states.

The technical assistance coordinator will assist BJA in the implementation of awards to individual States.

Grant Period

This project will be funded for 18 months with a projected start-up date of June 15, 1987; it will be awarded as a cooperative agreement under terms to be negotiated with BJA.

Award Amount

$325,000 for technical assistance coordination.

Eligibility Criteria

The technical assistance coordinator will be selected on a competivie basis from all interested firms or organizations. Each applicant should complete a SF 141 application to include: Statement of qualifications; a workplan sumarizing the task noted above; methods for brokering the range of technical assistance required; and capabilities for administering sub-grants and Federal funding. A table of proposed staff organization and resumes of key staff should be included. Applicant screening will be done by an independent panel of experts, with final selection by BJA.

Due Dates

Completed applications will be due at BJA by June 15, 1987. The BJA contact for additional information or federal application forms is Nicholas Demos, Program Manager for Corrections Programs, (202) v272–4605.

Benjamin H. Renshaw,

Acting Director.

[FR Doc. 87–9740 Filed 4–29–87; 8:45 am]

BILLING CODE 4410–18–M

Office of Juvenile Justice and Delinquency Prevention

Office of Justice Programs; National Conference of Member Representatives From State Advisory Groups; Meeting

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of advisory committee meeting.

SUMMARY: This notice sets forth the schedule for the forthcoming meeting of the National Conference of Member Representatives from State Advisory Groups. Notice of the meeting is required by the Federal Advisory Committee Act.

DATES: Sunday, May 17, 4:00–7:00 p.m., Tuesday, May 19, 2:00–6:00 p.m.

ADDRESS: Plaza of the Americas Hotel, 650 North Pearl Street, Dallas, Texas, 75201.

SUPPLEMENTARY INFORMATION: The National Conference of Member Representatives from State Advisory Groups (Conference) will meet during the "1987 National Conference of State Juvenile Justice Advisory Groups" held from May 17, 1987 to May 20, 1987 at the Plaza of the Americas Hotel, Dallas, Texas.

The 1987 National Conference is sponsored by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the National Coalition of State Juvenile Justice Advisory Groups. The National Conference will provide attendees with an opportunity to hear expert speakers in the field of juvenile justice, attend panel sessions on contemporary issues in juvenile justice, and examine critical issues through in-depth workshops in such areas as: Jail removal and detention; missing children; status offenders and runaways; minorities in the juvenile justice system; and delinquency prevention. Additional sessions and workshops will also be held.

In the course of the National Conference, the National Conference of Member Representatives from State Advisory Groups, an advisory committee established pursuant to section 3(2)(A) of the Federal Advisory Committee Act (5 U.S.C. App. 2) will meet to carry out its advisory functions under section 241(f)(3) and (4) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. These sessions which will be open to the public, are scheduled at the above listed dates and times.

FURTHER INFORMATION: For further information regarding the 1987 National Conference, please contact Marion Mattingly, Conference Coordinator, at (301) 469–6580. For information specific to the advisory committee function of the Conference, please contact Roberta Dorn, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, DC 20531, (202) 724–7655.

Dated: April 23, 1987.

Verne L. Speirs,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 87–9704 Filed 4–29–87; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 87–40]

Intent To Prepare an Environmental Impact Statement (EIS); Space Station

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: On January 5, 1984, the President of the United States directed NASA to develop a permanently manned Space Station within a decade. NASA has initiated a major design and technology development program and, after much analysis, has defined a Space Station baseline configuration. The Space Station will perform six major functions: (1) The conduct of science; (2) technology development; (3) stimulation of commercial space endeavors; (4) transportation; (5) servicing; and (6) large-scale assembly.

A permanently manned presence in space will help regain our nation's leadership in space. The Space Station will function as a transportation node for payloads and vehicles launched into low-Earth orbit on their way to higher orbit destinations, including planetary missions. The manned Space Station will provide vehicle docking, propellant storage and refueling, refurbishment, payload integration, and control. Using the Space Station as an observation platform, the Sun, the Earth, the solar system, and galaxies will be investigated on a continuous basis. Long-duration materials processing and life science experiments are expected to result in future science, medicine, and technology breakthroughs. The Space Station will provide users an opportunity to maintain and service equipment and instruments on a routine basis. Spacecraft servicing will revolutionize the current short-duration, single-event space operations and enable long-term benefits of space exploitation.

At President Reagan's invitation, Europe, Canada, and Japan have joined the Space Station endeavor. Currently, negotiations are underway to define the nature of Space Station cooperation. The Space Station will serve as a major focal point on international cooperation.

The Space Station hardware, including the unmanned platforms, is expected to be launched into space in the mid-1990's. The Space Shuttle will be the principal transportation system. Six or more crew members will be kept on station in Earth orbit as crews would be rotated and supplies will be brought to the station approximately every 90 days.

NASA has decided to prepare a Generic Environmental Impact Statement (GEIS) for the Space Station Program. Final Space Station configuration has not been determined at this time, therefore, environmental issues will be discussed with respect to a generic Space Station design. The GEIS will emphasize general functional requirements and aspects, those that are not necessarily specific to a particular configuration or design, although discussion of the baseline configuration will occur where appropriate.

Alternatives to the permanently manned Space Station that have been identified, outside of the many possible engineering design options, include: (1) The use of a less capable, person-tended or Shuttle-tended platform; or (2) continuing doing business as before by flying the Space Shuttle and expendable launch vehicles to deliver free-flying and Shuttle-attached payloads to space.

The initial assessment of environmental effects indicates that there are likely to be no significant environmental consequences to the terrestrial environment resulting from the program. Issues that are planned to be addressed in the GEIS are: On-orbit space debris generation; the low probability, accidental reentry of Space Station hardware; launch vehicle effects related to exhaust effluents and noise; disposal of waste generated on the station; technology transfer and spinoffs; Space Station disposal at end of 20–30 year cycle; and ground operations.

The draft GEIS is expected to be released for review and comment in August 1987. Written comments or suggestions are solicited as part of the EIS scoping process.

DATE: Comments in response to this notice must be received in writing on or before June 1, 1987.

ADDRESS: Mr. Andrew J. Stofan, Associate Administrator for Space Station, Code S, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Terence T. Finn, (202) 453–1161.

June Gibbs Brown,

Associate Administrator for Management.

[FR Doc. 87–9758 Filed 4–29–87; 8:45 am]

BILLING CODE 7510–01–M

OFFICE OF PERSONNEL MANAGEMENT

Request for Extension of RI 20–7 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (Title 44, U.S.C., Chapter 35), this notice announces a request to extend a public information collection. RI 20–7, Representative Payee Questionnaire, collects information from an individual applying to be a fiduciary for a Civil Service Retirement annunitant/survivor annuitant who is incapable of handling his or her own funds. There are 750 individuals who respond annually for a total public burden of 250 hours. For copies of this proposal call William C. Duffy, Agency Clearance Officer, on (202) 632–7714.

DATE: Comments on this proposal should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to—

William C. Duffy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415

and

Richard Eisinger, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, NW., Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632–5472.

Office of Personnel Management.

James E. Colvard,

Deputy Director.

[FR Doc. 87–9746 Filed 4–29–87; 8:45 am]

BILING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–15700; File Nos. 811–773; 812–6692]

Baldwin Securities Corp.; Notice of Application

April 24, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

Applicant: Baldwin Securities Corporation.

Relevant Sections of Act: Order requested pursuant to sections 3(b)(2) and 8(f) of the Act.

Summary of Application: Applicant seeks an exemption, pursuant to sections 3(b)(2) and 8(f) of the Act, declaring that it is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities, and terminating its registration as an investment company under the Act.

Filing Date: January 30, 1987; amended April 15, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application

will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests nust be received by the SEC by 5:30 p.m., on May 18, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESS: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549; Baldwin Securities Corporation, 342 Madison Avenue, New York, New York 10173.

FOR FURTHER INFORMATION CONTACT: George Martinez, Staff Attorney (202) 272–3040 or H.R. Hallock, Jr., Special Counsel (202) 272–3030, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from either the Commission's Public Reference Branch in person or the Commission's commercial copier (800) 258–4300 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant was organized as a corporation under Delaware law in 1957 and registered as a closed-end, diversified management investment company in June, 1957. On January 28, 1987, following a change in control, Applicant's stockholders voted to instruct management to take the necessary action for Applicant to cease to be an investment company.

2. On September 22, 1986, a contract was executed by Applicant, its then-majority stockholders ("Guilden Interests") and its current majority stockholders for the purchase of a majority interest in Applicant ("Stock Purchase Agreement"). The Stock Purchase Agreement required by its terms that Applicant convert from an investment company to an operating company. The Stock Purchase Agreement was entered into by Applicant and the Guilden Interests as part of a settlement ("Settlement") of a class and derivative action brought against Applicant and former members of its Board of Directors wherein plaintiffs alleged, among other claims, breaches of fiduciary duty and waste of corporate assets.

3. As another part of the Settlement, Applicant made a tender offer ("Tender Offer") to purchase for cash the shares of stock owned by Applicant's stockholders, including certain of the shares owned by the Guilden Interests, at a price equal to that paid by purchasers pursuant to the Stock Purchase Agreement, except for an adjustment for interest paid to the tendering stockholders. The price paid to the Guilden Interests pursuant to the Stock Purchase Agreement was $11.54 and that paid to the tendering stockholders pursuant to the Tender Offer, including the interest adustment, was $11.58. The interest adjustment was intended to compensate tendering stockholders for payment of the Tender Offer price which occurred after the closing of the Stock Purchase Agreement. Included with the documents distributed to stockholders in connection with the Tender Offer was a letter from one of the purchasers which described generally future plans for Applicant, which plans included deregistration as an investment company, pursuant to the Act, as part of a general plan to convert Applicant from an investment company to an operating company. The Stock Purchase Agreement closed on December 8, 1986; the Tender Offer closed on December 24, 1986.

4. Additional information with respect to Applicant's proposed deregistration was included in proxy materials disseminated to all stockholders prior to the meeting on January 28, 1987, at which stockholders voted in favor of taking steps necessary to deregister Applicant. Applicant's stockholders have thus had knowledge of plans to seek Applicant's deregistration as an investment company and the opportunity to either tender their shares for cash or vote at a stockholders meeting duly convened in connection with that issue.

5. In accordance with the Stock Purchase Agreement and in order to prepare for certain acquisitions as part of the plan to convert from an investment company to an operating company, Applicant has sold all of its portfolio of investment securities and its assets are now held in cash, non-investment securities or an operating business. The majority of Applicant's assets are presently invested in the United States Government Securities pending Applicant's identification of other operating businesses suitable for acquisition or other activities necessary to Applicant's future conduct as an operating company. As a result, Applicant derives virtually all of its income from its ownership of United States Government obligations. Applicant's officers and directors are engaged in implementing Applicant's business plan and identifying suitable companies for intended acquisition.

6. As part of the implementation of its business objectives, Applicant has implemented plans to enter the business of secured lending in connection with various real estate transactions and other commercial transactions, both alone and in participation with others, including commercial banks. Applicant has formed Baldwin Funding Corporation ("Company") as its wholly-owned subsidiary to conduct this business. Applicant has capitalized the Company with approximately five million dollars in exchange for 100% of the Company's issued and outstanding stock.

7. Baldwin Funding has consummated its first business transaction, which involved the assignment and assumption from Integon Life Insurance Company of a secured loan position collateralized with certain real property located in Atlanta, Georgia. The underlying loan was in the original principal amount of approximately seven million dollars. The consideration advanced by the Company for the assignment of this position was three million dollars in cash, and the undertaking by the Company of a purchase money obligation for the balance of the consideration for a period of four months. This new venture is typical of Applicant's present plans, which call for its future operations to be conducted through majority or wholly-owned subsidiaries or directly, and not through control, non-majority positions in other businesses.

8. Applicant undertakes that, in the event that the Commission issues an appropriate order declaring that Applicant has ceased to be a registered investment ccmpany under the Act, it will not, at any time thereafter, acquire any investment securities other than securities of entities which are, at the time of such acquisition, controlled by, or thereby become controlled by, Applicant, if, at the time of, or as a result of such acquisition, the value of the investment securities then held by Applicant (other than securities of such controlled affiliates) equals or exceeds forty percent (40%) of the value of Applicant's total assets at such time. It is Applicant's understanding that this undertaking in no way limits its right to receive at any time any non-investment securities distributed or issued to Applicant with reference to any securities then held by it, whether by reason of any stock split, stock

dividend, reorganization, merger, conversion or otherwise. Applicant will not invest any net earnings from its operating assets in investment securities other than securities of controlled affiliates except that investments may be made in short term securities pending application of such income to pay dividends, to invest in directly owned operating businesses, to acquire securities of present and future controlled operating affiliates or to repay any borrowings incurred for such purposes.

9. Applicant thus seeks an order: (a) Pursuant to section 3(b)(2) of the Act, declaring that it is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities either directly or through majority-owned subsidiaries or through controlled companies conducting similar types of businesses, and (b) pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-9834 Filed 4-29-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24382; File No. SR-CBOE-87-06]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Filing and Order Granting Accelerated Approval to Proposed Rule Change

On March 4, 1987, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to extend the CBOE's Retail Automatic Execution System ("RAES" or "System") eligibility pilot program for the Standard & Poor's 500 ("SPX") option [3] to November 20, 1987. The Commission previously approved the implementation of this pilot program on a six month basis, in September 1986.[4]

In brief, the pilot program requires those CBOE market makers who wish to participate in the RAES SPX pilot to meet certain eligibility requirements. All registered market makers are allowed to participate in RAES, but a market maker must log onto RAES in person and may remain on the System only so long as he is in the SPX trad:ng crowd.[5] A market maker must sign off the System whenever he leaves the trading crowd, except for periods considered "brief intervals" by the CBOE. Failure to comply with the eligibility requirements may result in disciplinary or remedial action by the CBOE's Market Performance Committee.

The CBOE states in its rule filing that a six-month extension of the RAES eligibility pilot in SPX is needed for the Exchange to determine whether to modify the present eligibility standards based on the results of the pilot to date. The CBOE believes that continuing the pilot program for an additional six months will prevent market disruption while the Exchange evaluates modifications to the existing standards.

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 [6] and the rules and regulations thereunder. The Commission believes that the pilot program is consistent with the Act because it is designed to ensure adequate market maker participation in the SPX pilot without imposing unreasonable burdens on CBOE market makers. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the proposal in the **Federal Register** because the Commission previously has approved the use of the eligibility standards herein described and has received no adverse comments regarding these requirements. Continuation of the pilot without interruption will assure the least disruption of the market while RAES eligibility standards are evaluated by the Exchange.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 87-9832 Filed 4-29-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15703; File No. 812-6432]

The Gateway Trust; Quarterly Distributions of Long-Term Capital Gains

Date: April 24, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant: The Gateway Trust.

Relevant 1940 Act Sections: Exemption requested under section 6(c) from section 19(b) of the 1940 Act and Rule 19b-1 thereunder.

Summary of Application: Applicant requests an exemption permitting its Gateway Option Income Fund (the "Option Fund"), to make quarterly distributions of long-term capital gains from certain options transactions as described below.

Filing Date: The application was filed on July 3, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC no later than 5:30 p.m., on May 19, 1987. Requests a hearing in writing, giving the nature of your interest, the reasons for the request, and the issues you contest. Applicant should be served with a copy of the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Notification of the date of a hearing should be requested by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. The

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[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b-4 (1985).

[3] The Commission approved the use of RAES for SPX options in September 1986. *See* Securities Exchange Act Release No. 23590 (September 4, 1986), 51 FR 32709. RAES automatically executes certain-sized public customer market and marketable limit orders entered into the System against participating CBOE market makers at the best bid or offer quoted on the CBOE floor at the time of the order's entry into RAES.

[4] *See* Securities Exchange Act Release No. 23590, supra note 3.

[5] Market makers may participate as individuals or through joint accounts. Only one joint account participant, however, may trade in SPX at a time. The CBOE prohibits two or more joint account members from trading in an options class simultaneously to avoid placing other trading crowd members at a competitive disadvantage. *See* CBOE Floor Procedure Committee memorandum, dated November 3, 1982.

[6] 15 U.S.C. 78f (1982).

[7] 15 U.S.C. 78s (2) (1982).

[8] 17 CFR 200.30-3(a)(12) (1985).

Gateway Trust, 400 TechneCenter Drive, Suite 220, Milford, Ohio 45150.

FOR FURTHER INFORMATION CONTACT: Sherry A. Hutchins, Staff Attorney at (202) 272–2799, or Brion R. Thompson, Special Counsel (202) 272–3016, Office of Investment Company Regulation, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300)).

Applicant's Representations

1. Applicant is registered under the 1940 Act as a diversified, open-end, management investment company. On April 15, 1986, the stockholders of Applicant's predecessor in interest, Gateway Option Income Fund, Inc. ("Company"), approved conversion of the Company to an Ohio business trust; and the Directors and Trustees gave all approvals necessary to (i) convert the Company's stock to shares of beneficial interest in the Option Fund, and (ii) establish a second fund, the Gateway Growth Plus Fund ("Growth Fund").

2. The investment objective of the Option Fund is to achieve a high current return at a reduced level of risk. The Option Fund is designed for conservative investors whose investment objective is to maximize their total rate of return over a complete market cycle. The Option Fund attempts to achieve its investment objective primarily by investing in a portfolio of common stocks that parallels the composition of the S&P 100 Stock Index and by selling call options on that index. The Option Fund will also purchase put options on securities indexes for protective purposes, principally to protect against declines in the market value of common stocks held in its portfolio or to attempt to retain unrealized gains in the value of securities which it holds. In order to enhance its current income, the Option Fund is further authorized to sell covered call options on individual stocks, sell covered put options on individual stock and or securities indexes, purchase put options on individual stocks or on securities indexes (collectively, "Options Transactions").

3. The Option Fund proposes to pay dividends from net investment income and distribute net short-term capital gains on a quarterly basis. Applicant seeks an exemption that would allow its Option Fund to also distribute on a quarterly basis net long-term capital gains realized or deem realized on the Options Transactions described above.

4. The primary investment objective of the Growth Fund is long-term growth of capital. Its secondary objective is the conservation of principal. The selection of its securities is made primarily on the basis of potential for capital appreciation. Like the Option Fund, the Growth Fund, also will purchase put options on securities for protective purposes, to protect against declines in values of portfolio stocks or to attempt to preserve unrealized capital gains in portfolio stocks. Unlike the Option Fund, however, the Growth Fund will not be faced with significant income from writing options and, therefore, does not join in this application requesting exemptive relief to permit quarterly distribution of its long-term capital gains.

5. Applicant states that under section 1256 of the Internal Revenue Code ("section 1256"), 60 percent of the gain or loss realized with respect to such Options Transactions is treated as long-term captial gain or loss and that 40 percent is treated as short-term gain or loss. Applicant believes that section 1256 was intended to eliminate certain tax abuses, and not to limit the frequency with which registered investment companies may distribute capital gains from transactions in options.

6. Nevertheless, Applicant notes that the characterization of 60 percent of the gain from Options Transactions as long-term capital gains under section 1256 would cause its proposed quarterly distribution of such gains to violate the provisions of section 19(b) of the 1940 Act and Rule 19b–1 thereunder. Applicant contends that none of the purposes of section 19(b) and Rule 19b–1 would be served prohibiting the Option Fund's proposed quarterly distribution of long-term capital gains from Options Transactions.

7. Applicant states that the distribution of long-term capital gains from Options Transactions, together with investment income, is not likely to result in confusion or misunderstanding among the shareholders of the Option Fund because the Option Fund will distinguish clearly any distribution of capital gains from distributions out of net investment income in an accompanying notice to its shareholders. Applicant further asserts that the Option Fund's quarterly distribution of long-term capital gains from Options Transactions to which section 1256 applies will not increase its administrative expenses because the Option Fund will already be making quarterly distributions of short-term capital gains.

8. According to the application, section 19(b) and Rule 19b–1 were also designed to prevent investment companies from churning their portfolios in contravention of their goal of long-term capital appreciation. Applicant asserts that the section 1256 characterization of 60 percent of the capital gain from Options Transactions as long-term capital gains is not expected to affect the investment decisions or distribution practices of the Option Fund, which has an investment objective of high current return, not long-term capital appreciation.

9. Applicant believes that designating an appropriate part of each quarterly distribution of gains from transactions in options to which section 1256 applies as long-term capital gains is in the best interest of its shareholders, since it will spread the benefit of the lower capital gains tax rate over the course of the year, rather than conferring the benefit exclusively on persons who hold shares on the record date for a once-a-year long-term capital gains distribution. Applicant submits that granting an exemption from section 19(b) of the 1940 Act and Rule 19(b)–1 thereunder to enable its Option Fund to make quarterly distributions of long-term capital gains from Options Transactions would be appropriate, in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–9835 Filed 4–29–87; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–16301]

Application and Opportunity for Hearing; General Telephone Co. of Indiana, Inc.

April 24, 1987.

Notice is hereby given that General Telephone Company of Indiana, Inc., an Indiana corporation (the "Corporation") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission ") that the trusteeship of Chemical Bank, a New York banking corporation (the "Bank"), under an indenture which is qualified under the

Act and an indenture not so qualified, is not so likely it involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under either of said indentures.

Section 310(b) of the Act provides in part that if a trustee under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of that section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

The Company alleges that:

1. The Bank, as Trustee, has entered into an Indenture dated as of July 1, 1968 (the "1968 Indenture") pursuant to which there have been issued $8,700,000 aggregate principal amount of Sinking Fund Debentures, 7% Series A, of General Telephone Company of Ohio ("GT Ohio"). The 1968 Indenture was filed as Exhibit 2–9 to Registration Statement No. 2–29249 under the Securities Act of 1933, as amended (the "1933 Act"), and has been qualified under the Act.

2. The Bank, as Trustee, has entered into an Indenture dated as of August 1, 1966, (the "1966 Indenture") pursuant to which there have been issued $11,000,000 aggregate principal amount of 6% Series A Debentures, Due August 1, 1991 of the Corporation. Such 6% Series A Debentures, due August 1, 1991, have not been registered under the 1933 Act, and accordingly, the 1966 Indenture was not qualified under the Act.

3. Effective as of March 31, 1987, GT Ohio merged with and into the Corporation (the "Merger"). Effective as of March 31, 1987, the name of the Corporation changed to GTE MTO, Inc. and the state of incorporation of the Corporation changed to Wisconsin. The Corporation and the Bank entered into the First Supplemental Indenture and Indenture of Assumption dated as of March 31, 1987 with respect to the 1968 Indenture. As a result of the Merger and pursuant to the supplemental Indenture, the Corporation assumed the obligations of GT Ohio under the 1968 Indenture.

4. Section 11.08 of the 1968 Indenture provides in part as follows:

"Section 11.08. (a) If the Trustee has or shall acquire any conflicting interest, as defined in this section, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in section 11.10.

(b) In the event that the Trustee shall fail to comply with the provisions of subsection (a) of this section, the Trustee shall, within 10 days after the expiration of such 90-day period, transmit notice of such failure to the debentureholders in the manner and to the extent provided in subsection (c) of section 8.04 with respect to reports pursuant to subsection (a) of said section 8.04.

(c) For the purposes of this section the Trustee shall be deemed to have a conflicting interest if

(1) The Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of debentures issued under this Indenture, provided that there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding if (i) this Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act of 1939, unless the Securities and Exchange Commission shall have found and declared by order pursuant to subsection (b) of section 305 or subsection (c) of section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture or such other indenture or indentures, or (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that the trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures."

5. There are no defaults existing under either the 1966 Indenture or the 1968 Indenture. The Debentures issued pursuant to the 1966 and 1968 Indentures are wholly unsecured and rank *pari passu*.

6. Such differences as exist among the 1966 and the 1968 Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of these Indentures.

The Corporation has waived (a) notice of hearing, (b) hearing on the issues raised by said application and (c) all rights to specify procedures under the Commission's Rules of Practice.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the Offices of the Commission's Public Reference Section, File Number 22–16301, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than May 18, 1987, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–9836 Filed 4–29–87; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–16266]

Application and Opportunity for Hearing; General Telephone Co. of Indiana, Inc.

April 24, 1987.

Notice is hereby given that General Telephone Company of Indiana, Inc., an Indiana corporation (the "Corporation") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Irving Trust Company, a New York banking corporation (the "Bank"), under

three indentures which were heretofore qualified under the Act and an indenture not so qualified is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under any of said indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of that section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor. The Company alleges that:

1. The Bank, as Trustee, has entered into Indentures dated as of April 1, 1969 (the "1969 Indenture") and April 1, 1972 (the "1972 Indenture") pursuant to which there have been issued $22,000,000 aggregate principal amount of Debentures of Series A of General Telephone Company of Michigan ("GT Michigan") and $16,000,000 aggregate principal amount of Debentures of Series A of General Telephone Company of Pennsylvania ("GT Pennsylvania"), respectively. The 1969 and 1972 Indentures were filed as Exhibits 2–4 and 4–4, respectively, to Registration Statement Nos. 2–37646 and 2–48703, respectively, under the Securities Act of 1933, as amended (the "1933 Act"), and both have been qualified under the Act.

2. The Bank, as Trustee, has entered into an Indenture dated as of March 1, 1964, as supplemented by a First Supplemental Indenture dated as of November 1, 1970 (the "1964 Indenture") pursuant to which there have been issued $7,000,000 aggregate principal amount of 5.50% Sinking Fund Debentures, due March 1, 1989 of General Telephone Company of Wisconsin ("GT Wisconsin"). Such 5.50% Sinking Fund Debentures, due March 1, 1989 have not been registered under the 1933 Act on the basis of the exemption provided by section 4(2) thereof for transactions not involving any public offering, and accordingly, the 1964 Indenture was not qualified under the Act.

3. The Corporation and the Bank propose that the Bank succeed Bankers Trust Company as Trustee under an Indenture dated as of December 1, 1967 (the "1967 Indenture") pursuant to which there have been issued $20,000,000 aggregate principal amount of Debentures of Series A of General Telephone Company of Illinois ("GT Illinois"). The 1967 Indenture was filed as Exhibit 2–5 to Registration Statement No. 2–42616 under the 1933 Act, and has been qualified under the Act.

4. Effective as of March 31, 1987, each of GT Wisconsin, GT Michigan, GT Pennsylvania and GT Illinois merged with and into the Corporation (the "Merger"). Effective as of March 31, 1987, the name of the Corporation was changed to GTE MTO, Inc., and the state of incorporation of the Corporation changed to Wisconsin. The Corporation and the Bank entered into a First Supplemental Indenture and Indenture of Assumption dated as of March 31, 1987 with respect to each of the 1969 Indenture, the 1967 Indenture and the 1972 Indenture, and a Second Supplemental Indenture and Indenture of Assumption dated as of March 31, 1987 with respect to the 1964 Indenture (such First Supplemental Indentures and Indentures of Assumption and Second Supplemental Indenture and Indenture of Assumption herein called the "Supplemental Indentures"). As a result of the Merger and pursuant to the Supplemental Indentures the Corporation assumed the obligations of GT Wisconsin, GT Michigan, GT Pennsylvania and GT Illinois, under the 1964 Indenture, the 1969 Indenture, the 1972 Indenture and the 1967 Indenture, respectively.

5. Under section 11.8(c)(1)(i) of each of the 1967 Indenture, the 1969 Indenture and the 1972 Indenture, the Bank shall not be deemed to have a conflicting interest by reason of acting as Trustee under all of such Indentures if such Indentures are wholly unsecured and are qualified under the Act, unless the Commission shall have found and ordered that differences exist between the provisions of such Indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under such Indentures.

6. Under section 11.08(c)(1)(i) of each of the 1967 Indenture, the 1969 Indenture and the 1972 Indenture, the Bank shall not be deemed to have a conflicting interest by reason of acting as Trustee under the 1964 Indenture if the Corporation shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeship under each of the 1967, 1969 and 1972 Indentures and the 1964 Indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of said Indentures.

7. There are no defaults existing under any of the 1964 Indenture, the 1967 Indenture, 1969 Indenture or the 1972 Indenture. The Debentures issued pursuant to the 1964, 1967, 1969 and 1972 Indentures are wholly unsecured and rank *pari passu*.

8. Such differences as exist among any of the 1967 Indenture, the 1969 Indenture, 1972 Indenture and the 1964 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of said Indentures.

The Corporation has waived (a) notice of hearing, (b) hearing on the issues raised by said application, and (c) all rights to specify procedures under the Commission's Rules of Practice. For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the Offices of the Commission's Public Reference Section, File Number 22–15746, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than May 18, 1987, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pusuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–9837 Filed 4–29–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34-24383; File No. SR-Phlx-87-05]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval to Proposed Rule Change

On March 9, 1987, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to extend the Exchange's index options escrow receipt pilot program until June 30, 1987. The proposed rule change further requests that the program thereafter be approved on a permanent basis.

In August 1985, the Phlx, in conjuntion with the other options exchanges, adopted a one-year pilot program to permit the use of cash, cash equivalents, one or more qualified securities, or a combination of the foregoing, as collateral for escrow receipts issued to cover short call positions in broad-based stock index options.[3] Pursuant to its agreement with the Commission, the Chicago Board Options Exchange, Inc. ("CBOE"), on behalf of the other options exchanges and the Options Clearing Corporation, agreed to monitor the use of index option escrow receipts during the pilot program. The program was subsequently extended for an additional six month period to permit the CBOE to complete its study.

On February 6, 1987 the CBOE submitted its report on the pilot program to the Commission for its review and assessment. In order for the Commission to review thoroughly this report, the Phlx proposes that the pilot program be extended through June 30, 1987. In addition, because the CBOE report concludes that the pilot program has been a success and warrants final Commission approval, the Exchange also proposes that the program be continued on a permanent basis.

The Commission has concluded that the proposed rule change to extend the operation of the index option escrow receipt pilot program through June 30, 1987 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Exchange, and, in particular, the requirements of section 6,[4] and the rules and regulations thereunder. The Commission is approving the four month extension because it will enable continuation of a program designed to reduce operational difficulties of banks and trust companies while the Commission evaluates the program's effectiveness. The Commission finds good cause for approving the time extension aspect of the proposed rule change prior to the thirtieth day after the date of publication thereof, in that the pilot was previously approved by the Commission and no adverse comments have been received regarding its operation.

As regards that part of the proposed rule change which requests that the index option escrow receipt program be made permanent, this publication constitutes notice only of this aspect of the rule filing. Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (1) by order approve this aspect of the proposed rule change, or, (2) institute proceedings to determine whether the proposed rule change should be disapproved.

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., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposal to extend the operation of the pilot through June 30, 1987 is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Dated: April 23, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-9833 Filed 4-29-87; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b-4 (1985).

[3] *See* Securities Exchange Act Release No. 22323 (August 13, 1985), 50 FR 33439 for a description of the pilot program.

[4] 15 U.S.C. 78f(1982).

[5] 15. U.S.C. 78s(b)(2)(1982).

[6] 17 CFR 200.30-3(a)(12)(1985).

[Rel. No. IC-15699; 812-6654]

The Sumitomo Bank of Canada; Notice of Application

Dated: April 13, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Relevant 1940 Act Sections

Exemption requested under section 6(c) from all provisions of the 1940 Act.

Summary of Application

Applicant seeks an order exempting it from all provisions of the 1940 Act in connection with the issuance and sale of its U.S. dollar denominated certificates of deposit and other debt securities in the United States ("Securities"). Payment of principal and interest on the Securities will be unconditionally guaranteed by The Sumitomo Bank, Limited, New York Branch ("Sumitomo New York"), or The Sumitomo Bank, Limited ("Sumitomo").

Filing Date

The application was filed on March 17, 1987.

Hearing or Notification of Hearing

If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on May 18, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, Washington, D.C. 20549. Applicants, The Sumitomo Bank of Canada, c/o Stephen D. Wayne, Esq., Marks Murase & White, 400 Park Avenue, New York, N.Y. 10022.

FOR FURTHER INFORMATION CONTACT: Denis R. Molleur, Staff Attorney (202) 272–2363 or H. R. Hallock, Jr., Special Counsel (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from either the Commission's Public Reference Branch in person, or the Commission's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations:

1. The Sumitomo Bank of Canada ("Sumitomo Canada") is a Canadian chartered bank constituted and licensed under the Bank Act, S.C. 1980, chap. 40 (the "Canadian Bank Act"), that commensed operation as a foreign bank subsidiary under the Canadian Bank Act in February, 1987. All of Sumitomo Canada's outstanding capital stock is owned by Sumitomo.

2. Sumitomo Canada offers full banking services through its head office in Toronto, including short and medium term commercial lending; deposit-taking; investing in commercial paper, bank instruments and government obligations; discounting trade bills; issuing letter of credit; and foreign exchange trading. As of February 20, 1987, its total assets were equivalent to approximately U.S. $59,687 million, with authorized capital stock consisting of 300,000 shares of Can. $100 par value common stock and paid up capital of Can. $15,000,000.

3. As as Canadian bank chartered under the Canadian Bank Act, various aspects of Sumitomo Canada's business, including, deposit reserves and insurance, permissible powers, loan volume and dividend policy, are subject to regulation under the Canadian Bank Act and the Canada Deposit Insurance Corporation Act, as amended. The Canadian Inspector General of Banks (the "Inspector General") is responsible generally for the administration of the Canadian Bank Act and more particularly for the day-to-day regulation of Canadian banks to ensure compliance with Canadian banking law. Canadian banks are required to file with the Inspector General, and publish annual statements in prescribed form comprised of statements of assets and liabilities, income, appropriations for contingencies and changes in shareholders' equity of the bank together with a report of the bank's auditors thereon. The Inspector General is permitted to examine the Applicant as often as it is deemed necessary or expedient, and in no event less than once a year, and the Inspector General has power to issue subpoenas and similar processes compelling attendance of any person to give testimony in respect to any matter under investigation and to produce documents, books and papers under such person's control. The Canadian Bank Act also governs matters such as liquidity requirements.

4. Sumitomo ranked as the 3rd largest bank in the free world in terms of deposits as of December 31, 1985. As of March 31, 1986, Sumitomo had worldwide assets equivalent to approximately U.S. $173 billion, worldwide deposits equivalent to approximately U.S. $125 billion, worldwide customer loans and bills discounted equivalent to approximately U.S. $88 billion, and total stockholders' equity equivalent to approximately U.S. $3.9 billion.

5. Sumitomo is presently engaged in the conduct of a commercial banking business in Japan, which includes receiving deposits, making loans, discounts and security investments, conducting domestic and foreign exchange transactions, and performing such other related services as safekeeping, money exchange collections and issuing guarantees, acceptances and letters of credit. As of March 31, 1986, Sumitomo operated in Japan through its head office, 223 branches, 21 sub-branches, 4 subsidiaries and 9 associated companies and it maintains branches, agencies and representative offices in 29 other countries and banking subsidiaries in several other countries.

6. Sumitomo is extensively regulated under Japanese banking laws and the regulations promulgated thereunder. The Japanese Ministry of Finance audits Sumitomo once evey two or three years and the Bank of Japan conducts field checks once every two or three years. The Japanese Ministry of Finance supervises the lending ratios and lending limits of Japanese banks. In addition, the Japanese Ministry of Finance exercises supervisory control over Japanese banks by reason of the necessity of obtaining the approval of the Japanese Ministry of Finance with respect to such matters as the establishment of additional offices, reductions in capital, mergers, liquidations or discontinuations of business. The Japanese Ministry of Finance also has the authority to instruct Japanese banks to remove directors, to direct a Japanese bank to submit certain property to be held for the protection of depositors or to issue such other orders as may be deemed necessary.

7. Sumitomo has been licensed by the New York State Superintendent of Banks to maintain a branch office in New York State since April 1877 and, under its present branch license, Sumitomo New York is authorized to engage in "the business of buying, selling, paying or collecting bills of exchange, or of buying, selling, paying or collecting bills of exchange, or of issuing letter of credit or of receiving money for transmission or transmitting the same by draft, check, cable or otherwise, or of making loans, or of receiving deposits."

8. Sumitomo New York, as a New York branch of a foreign bank, is subject to extensive Federal and New York State regulation. It must maintain daily records of assets and liabilities that are payable at or through Sumitomo New York. Its loans, purchases and discounts of notes, bills of exchange, bonds, debentures and other obligations and extension of credit and acceptances are subject to the same limitations as to amount in relation to the capital stock, surplus fund and undivided profits of Sumitomo as are applicable to New York State banks and trust companies. In addition, Sumitomo must maintain on deposit with a bank, trust company, private banker or national bank which it has selected, assets the aggregate value of which is equal to 5% of its total liabilities (excluding liabilities owed to other offices and subsidiaries of Sumitomo). Sumitomo New York is also subject to regulation under the International Banking Act of 1978.

9. Securities to be publicly offered by Sumitomo Canada in the United States will be sold in minimum denominations of U.S. $100,000 through major dealers and will be sold only to institutional and other sophisticated investors. Payment of principal of, and interest on, the Securities will be unconditionally guaranteed by Sumitomo New York or by Sumitomo, provided that Sumitomo shall have obtained an order of the Commission pursuant to Section 6(c) of the 1940 Act exempting it from all the provisions of the 1940 Act in connection with the issuance of such guarantees. Consequently, holders for the Securities will look to Sumitomo New York or Sumitomo, as the case may be, as the ultimate obligor. The Securities will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and Sumitomo

Canada undertakes that, prior to the issuance of any Securities, its United States counsel shall have certified that such rating has been received and is in effect as of such time. The Securities will rank *pari passu* among themselves, and the guarantees in respect thereof will rank *pari passu* among themselves; the Securities will rank equally with all other unsecured indebtedness of Sumitomo Canada (except to the extent such indebtedness is preferred by operation of law) including deposit liabilities, and superior to rights of shareholders; and the guarantees of the Securities will rank equally with all other unsecured indebtedness of Sumitomo New York or Sumitomo, as the case may be (except to the extent such indebtedness is preferred by operation of law), including deposit liabilities, and superior to rights of shareholders.

10. Any offering in the United States of Securities will be made only pursuant to a registration statement under the Securities Act of 1933 ("1933 Act"), or pursuant to an applicable exemption from the registration requirements of the 1933 Act. Any such offering will be done on the basis of disclosure documents that are appropriate and customary for such registration or exemption, and in any event at least as comprehensive as those used in offerings of similar Securities in the United States by United States issuers, and which include a memorandum describing the business of Sumitomo and Sumitomo Canada and containing the most recent publicly available annual financial statements of Sumitomo and Sumitomo Canada (including a balance sheet and income statement), audited in accordance with Japanese and Canadian accounting principles, respectively. Such memorandum will include brief paragraphs highlighting the material differences between generally accepted accounting principles applicable to United States banks and (i) Japanese accounting principles applicable to Japanese banks and used by Sumitomo and (ii) Canadian accounting principles applicable to Canadian banks and used by Sumitomo Canada. Such memorandum will be updated promptly to reflect material changes in the business and financial condition of Sumitomo or Sumitomo Canada. Such disclosure documents will be provided to each offeree who has indicated an interest in purchasing Securities prior to any sale of such Securities to such offeree; except that, in the case of an offering being made pursuant to a registration under the 1933 Act, such disclosure documents will be provided to such persons and in such manner as may be required by the 1933 Act.

11. In connection with any offering of Securities in the United States, Sumitomo Canada will expressly accept the jurisdiction of any state or federal court in the City and State of New York in respect to any action based on such Securities. Further, it will appoint an agent located in the City and State of New York (which may be Sumitomo New York) to accept any process which may be served in any such action. Such consent to jurisdiction and appointment of an agent for service of process will be irrevocable so long as such Securities remain outstanding and until all amounts due and to become due in respect of such Securities have been paid.

12. Sumitomo Canada will not offer any Security unless (i) it shall have registered such Security pursuant to the 1933 Act, or (ii) if it offers such Security without registration pursuant to an applicable exemption from registration pursuant under the 1933 Act, either (x) it shall have received an opinion of its United States legal counsel to the effect that, under the circumstances of the proposed offering, such Security will be entitled to an exemption provided under the 1933 Act, or (y) the Staff of the Commission shall have stated in writing that it will not recommend enforcement action to the Commission under the circumstances of the proposed offering or the Commission shall have issued a policy statement indicating that an offering of securities under circumstances substantially similar to that of the proposed offering will not be the subject of an enforcement action.

13. Sumitomo Canada will not offer any Security (i) in the case of any Security to be guaranteed by Sumitomo New York, unless it shall receive an opinion of Japanese legal counsel to Sumitomo to the effect that the obligation of Sumitomo New York pursuant to such guarantee also constitutes the legal, valid and binding obligation of Sumitomo enforceable against Sumitomo in accordance with its terms, and (ii) in the case of any Security to be guaranteed by Sumitomo, unless Sumitomo shall have obtained an order of the Commission pursuant to section 6(c) of the 1940 Act exempting it from all the provisions of the 1940 Act in connection with the issuance of such guarantee.

Applicant's Conditions

Sumitomo Canada consents to any order issued pursuant to section 6(c) of the 1940 Act granting the relief requested being expressly conditioned upon its compliance with the representations and undertakings set forth in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-9838 Filed 4-29-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2277]

Massachusetts; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on April 18, 1987, I find that Berkshire, Essex, Franklin, Hampshire, Middlesex, Norfolk, and Worcester Counties in the Commonwealth of Massachusetts constitute a disaster loan area because of severe storms and flooding occurring on or about March 30, 1987. Eligible persons, firms, and organizations may file applications for physical damage until the close of business on June 18, 1987, and for economic injury until the close of business on January 18, 1988, at: Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fair Lawn, New Jersey 07410, or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	7.500
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations included charitable and religious organizations)	9.500

The number assigned to this disaster is 227706 for physical damage and for economic injury the number is 652400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 21, 1987.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 87-9737 Filed 4-29-87; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2278]

New Jersey; Declaration of Disaster Loan Area

Pequannock Township and Lincoln Park Borough in Morris County, and Little Falls Township, Paterson City, and Wayne Township in Passaic County, in the State of New Jersey, constitute a disaster area because of damage from heavy rains, high winds, and flooding which occurred between April 3 and April 6, 1987. Applications for loans for physical damage may be filed until the close of business on June 22, 1987, and for economic injury until the close of business on January 25, 1988, at the address listed below: Disaster Area 1 Office, Small Business Administration, 15–01 Broadway, Fair Lawn, New Jersey 07410, or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	7.750
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	9.500

The number assigned to this disaster is 227806 for physical damage and for economic injury the number is 652500.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: April 23, 1987.

James Abdnor,

Administrator.

[FR Doc. 87–9738 Filed 4–29–87; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

[Docket 44812]

Tourlite International, Inc., Violations; Enforcement Proceeding; Assignment of Proceeding

Served: April 24, 1987.

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications with respect to this proceeding should be addressed to him at U.S. Department of Transportation, Office of Hearings, M–50, Room 9400A, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–2142.

Dated at Washington, DC, April 24, 1987.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 87–9761 Filed 4–29–87; 8:45 am]

BILLING CODE 4910–62–M

[Docket 44719]

US Air-Piedmont Acquisition Case; Hearing

Served: April 24, 1987.

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on May 1, 1987, at 10:00 a.m. (local time) in Room 5332, Nassif Building, 400 7th Street, SW., Washington, DC 20590, before the undersigned administrative law judge, to receive documents pursuant to subpoenas issued April 24, 1987. Objections, if any, including motions to quash, which must be filed by April 30, 1987, pursuant to 14 CFR 302.19, will be considered, and may be determined, at the hearing.

Dated at Washington, DC, April 24, 1987.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 87–9736 Filed 4–29–87; 8:45 am]

BILLING CODE 4910–62–M

Coast Guard

[CGD–87–032]

Environmental Impact Statement; Proposed Development of Cottonwood Island for Marine Terminal/Industrial Facility Near Longview, Cowlitz County, WA

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Coast Guard is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared in conjunction with agency action (issuance or denial of a bridge permit) related to approval of location and plans for the proposed construction of twin vehicular bridges and a single railroad bridge across Carrolls Channel of the Columbia River near Longview, Washington. The bridges will be used to support the construction and operation of a new marine terminal and industrial facility to be located on Cottonwood Island at about river mile 66.0. The Columbia River, including Carrolls Channel, has been determined to be a navigable water of the United States; therefore, a Coast Guard bridge permit is required.

FOR FURTHER INFORMATION CONTACT: John Mikesell, EIS Project Officer, Bridge Section, Aids to Navigation Branch, Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067, telephone (206) 442–5564/FTS 399–5864.

SUPPLEMENTARY INFORMATION: The Coast Guard, as lead federal agency, in cooperation with Cowlitz County, will prepare an EIS, pursuant to requirements of the National Environmental Policy Act (NEPA), on a proposal to provide land access to facilitate development of Cottonwood Island in the Columbia River, mile 66.0, near Longview, Washington, as a marine terminal and industrial facility. Cowlitz County is acting as lead agency for the preparation of an EIS pursuant to the Washington State Environmental Policy Act (SEPA). It is the intent of the Coast Guard and Cowlitz County to jointly produce an EIS that serves the purposes of both NEPA and SEPA. The EIS will cover the impacts of site access and development, and, where identified, operation of the completed facility. Alternatives to be examined are: (1) Taking no action; (2) using alternate access routes; and (3) developing alternate sites. The proposed project would be undertaken by the Falcon Development Corporation, Inc., of Kelso, Washington. Preliminary meetings have been held with federal, state, and local authorities concerning the need for and potential impacts of the proposed project.

Scoping

Scoping meetings for the purposes of identifying issues to be evaluated in the EIS will be held in Kelso, Washington. Dates, times and locations of the meetings will be announced at a later date. It is anticipated that a public hearing will be held after the Draft EIS is issued for public and agency review and comment.

The U.S. Army Corps of Engineers has been requested to be a cooperating agency. The Draft EIS will be sent to them as well as other federal and state agencies who have an interest in the project. Interested persons are encouraged to submit their name and address to the EIS Project Officer for inclusion on the distribution list for the Draft EIS and related public notices.

To ensure that the full range of impacts related to the proposed action are addressed and all significant issues are identified, comments or suggestions are invited from interested parties. Comments or questions concerning the proposed action and EIS should be

directed to the Coast Guard Project Officer listed above.

Dated: April 24, 1987.

Martin H. Daniell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 87-9780 Filed 4-29-87; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 10-87]

Treasury Notes, Series X-1989

Washington, April 23, 1987.

The Secretary announced on April 22, 1987, that the interest rate on the notes designated Series X-1989, described in Department Circular—Public Debt Series—No. 10-87 dated April 16, 1987, will be 7⅛ percent. Interest on the notes will be payable at the rate of 7⅛ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-9730 Filed 4-29-87; 8:45 am]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of information collection submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that such a submission has been made. USIA is requesting approval of information collection, in the form of a one-time questionnaire, in support of the evaluation of the South America Today Program.

DATE: Comments must be received by May 13, 1987.

Copies: Copies of the Request of Clearance (SF-83), Supporting Statement, transmittal letter and other documents submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Retta Graham-Hall, United States Information Agency, M/ASP, 301 4th St., SW., Washington, DC 20547, telephone (202) 485-7501; and OMB review, Francine Picoult, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Bldg., Washington, DC 20503, telephone (202) 395-7340.

SUPPLEMENTARY INFORMATION: Title: South America Today Program. Abstract: In the interest of sound program management, USIA regularly evaluates its exchange activities authorized under the Fulbright-Hays Act. This pilot program for 30 university faculty teaching about Latin America was offered in 1985 and 1986. The information to be collected via a questionnaire to be mailed to each participant will help USIA to determine the program's impact on their teaching and scholarship and on their institutions. The results will inform future programming.

Proposed frequency of response:

No. of respondents—30
Response hours per respondent—.5
Total annual burden—15 hours.

Dated: April 22, 1987.

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 87-9721 Filed 4-29-87; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a new collection and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Allison Herron, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before June 29, 1987.

Dated: April 23, 1987.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

New Collection

1. Department of Veterans Benefits.
2. Information Collected from Lenders: Credit Reports on Proposed Loan Reamortizations, Claims Under Guaranty, and Repurchased Vendee Loans.
3. VA Vorm N/A.
4. OMB Circular A-129 requires that Federal agencies credit reports on borrowers when loans are reamortized, in connection with claims on defaulted VA-guaranteed loans and when vendee loans are repurchased. These credit reports will assist VA in debt collection.
5. One time.
6. Individuals or households; Businesses or other for-profit.
7. 31,644 responses.
8. 3,164 hours.
9. Not applicable.

[FR Doc. 87-9757 Filed 4-29-87; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 83
Thursday, April 30, 1987

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).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 5, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, May 7, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO CONSIDERED:

Setting of dates for Future Meetings.
Correction and Approval of Minutes.
Eligibility for Candidates to Receive Presidential Matching Funds.
Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. 87-9932 Filed 4-28-87; 3:34 pm]
BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 3:00 p.m., Wednesday, May 6, 1987.

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: April 28, 1987.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 87-9944 Filed 4-28-87; 3:48 pm]
BILLING CODE 6210-01-M

Corrections

Federal Register
Vol. 52, No. 83
Thursday, April 30, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 55, 56, 59, and 70

Increase in Fees and Charges

Correction

In rule document 87-9287 beginning on page 13627 in the issue of Friday, April 24, 1987, make the following corrections:

1. On page 13627, in the first column, under **SUMMARY**, in the ninth line, "and" should read "are".

2. Also on page 13627, in the first column, under **SUPPLEMENTARY INFORMATION**, in the second line, "revised" should read "reviewed"; in the second paragraph, in the ninth line, "inspection" should read "inspected".

§ 55.550 [Corrected]

3. On page 13628, in the table, in § 55.550(a), in the entry for "Color: NEPA", the Fee column should read "21.99".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 330

9 CFR Part 94

[Docket No. 85-345]

Plant Pests and Exportation and Animal Products; Garbage

Correction

In proposed rule document 87-8659 beginning on page 12917 in the issue of Monday, April 20, 1987, make the following corrections:

1. On page 12917, in the third column, in the eighth line of the first complete paragraph, "has been" should read "has not been".

§ 330.400 [Corrected]

2. On page 12920, in the first column, in § 330.400, in the 10th line of paragraph (f)(2), "1930" should read "1903" and in the 12th line of the same paragraph "1903" should read "1930".

§ 94.5 [Corrected]

3. On page 12921, in the first column, in § 94.5, in the third from last line of paragraph (e), insert "1930" after "July 17,".

4. Also on page 12921, in the first column, in the sixth line of amendatory instruction 3., "(b)(1)" should read "(f)(1)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 77N-0240; DESI 12836]

Dipyridamole; Drugs for Human Use; Drug Efficacy Study Implementation; Withdrawal of Approval of New Drug Applications

Correction

In notice document 87-8003 appearing on page 11753 in the issue of Friday, April 10, 1987, make the following correction:

In the second column, in item 1., "ANDA" should read "NDA".

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-87-1686; FR-2344]

Formula Allocations for the Rental Rehabilitation Program for FY 1987 and Deadlines for Submission of Program Descriptions

Correction

In notice document 87-8689 beginning on page 12608 in the issue of Friday, April 17, 1987, make the following correction:

On page 12609, in the second column, in the fourth line from the bottom, "on" should read "one".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Pennsylvania Permanent Regulatory Program

Correction

In proposed rule document 87-8448 beginning on page 12195 in the issue of Wednesday, April 15, 1987, make the following correction:

On page 12195, in the second column, in the **SUMMARY**, in the third line from the bottom, "not" should read "now".

BILLING CODE 1505-01-D

federal register

Thursday
April 30, 1987

Part II

Department of Defense

Corps of Engineers, Department of the Army

33 CFR Part 222

Engineering and Design; Water Control Management; Final Rule

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 222

[ER 1110-2-240]

Engineering and Design; Water Control Management

AGENCY: US Army Corps of Engineers, Defense.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is revising and updating Appendix E of 33 CFR Part 222. Appendix E is a list of major projects owned and operated by the Corps of Engineers, that have a special operating plan for performing project water control regulation management activities and are subject to the provisions of 33 CFR Part 222.

EFFECTIVE DATE: June 1, 1987.

ADDRESS: HQUSACE (DAEN-CWH-W) WASH DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Dr. Ming Tseng, Chief, Water Control/ Quality Branch, (202) 272-8509.

SUPPLEMENTARY INFORMATION: This final rule updates and revises Appendix E of Section 222.7, Engineering and Design; Water Control Management, which lists US Army Corps of Engineers projects and their associated pertinent data.

1. This regulation is not a major rule within the meaning of E.O. 12291 requiring preparation of a regulatory impact analysis because it will not result in an annual effect on the economy of $100 million or more and it will not result in a major increase in costs or prices.

2. Pursuant to 5 U.S.C. Section 605(b), I hereby certify that this regulation will not have a significant economic impact on a substantial number of entities.

3. We have determined that notice of proposed rulemaking in this matter is unnecessary since it involves interpretive rules, general statements of policy and agency practice and procedures.

List of Subjects in 33 CFR Part 222

Bridges, Dams, Water resources, Reservoir, Transportation, Rivers, Fish, Wildlife, Records.

Accordingly, Engineering and Design; Water Control Management, 33 CFR Part 222 is amended as follows:

1. The authority citation for 33 CFR Part 222, Appendix E continues to read as follows:

Authority: Sec. 7, PL 78-534, 58 Stat. 890 (33 U.S.C. 709); the Federal Power Act, 41 Stat. 1063 (16 U.S.C. 791(A)); and Sec. 9 PL 83-436, 68 Stat. 303, specific legislative authorization Acts and Public Laws listed in Appendix E of this regulation.

2. Section 222.7 is amended by revising Appendix E in its entirety as set forth below.

Dated: March 23, 1987.

Robert K. Dawson,

Assistant Secretary of the Army (Civil Works).

APPENDIX E—LIST OF PROJECTS

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
Lower Mississippi Valley Division									
Alligator—Catfish FG	MS Issaquena	Little Sunflower	F	0.0	0.0	0.0	0	0	FCA Jun 36.
Arkabutla Lk	MS Desoto	Coldwater	F	493.0	238.3	209.3	0	0	FCA Jun 36.
Ascalmore—Tippo FG & CS.	MS Tallahatchie	Ascalmore	F	0.0	136.0	118.0	0	0	FCA Jun 36.
Bienvenue FG	LA St Bernard	Bayou Bienvenue	F	0.0	2.0	2.0	0	0	PL 298-89
Big Lk Ditch #81 CS	AR Mississipp	Ditch 81 Extension.	C	0.0	0.0	230.0	0	0	FCA Oct 65.
Big Lk North End CS	AR Mississipp	Little R	C	0.0	0.0	230.0	0	0	FCA Oct 65.
Big LK North End CS	AR Mississipp	Little R	C	0.0	0.0	230.0	0	0	FCA Oct 65.
Big Lk South end CS	AR Mississipp	Ditch 28	C	0.0	0.0	230.0	0	0	FCA Oct 65.
Birds Point—New Madrid Div Floodway.	MO New Madrid	Mississippi	F	0.0	330.5	328.5	131,000	71,000	FCA May 28.
Bodcau Lk	LA Bossier	Bayou Bodcau	F	35.3	199.5	157.0	21,000	0	PL 74-839.
Bonnet Carre Div Spillway	LA St Charles	Mississippi R	F	0.0	24.0	20.0	0	0	FCA May 28.
Bowman Lock	LA Vermilion	GIWW	I	0.0	1.2	1.2	0	0	PL 79-14.
Caddo Lk	LA Caddo	Cypress Bayou	N	0.0	182.7	168.5	0	0	FCA Oct 65.
Cairo 10th & 20th St PS	IL Pulaski	Ohio	F	0.0	310.5	299.0	0	0	PL 90-483.
Calcasieu SW Barrier & Lock.	LA Calcasieu	Calcasieu R	I	0.0	1.7	1.7	0	0	RHA Oct 62.
Calion L&D	AR Union	Ouachita	N	0.0	75.1	63.6	0	0	RHA 1950.
Calument FG East & West	LA St Mary	Wax Lake Outlet Bayou Teche.	FN	0.0	3.0	3.0	0	0	FCA Jun 36.
Cannon Re-reg	MO Ralls	Salt R	PCA	5.8	528.0	521.0	0	460	HD 507.
Carlyle Lk	IL Clinton	Kaskaskia R	F	699.0	462.5	445.0	50,440	24,580	SD 44.
			NMCAR	233.0	445.0	429.5	0	7,100	
Catahoula Lk CS	LA LaSalle	Catahoula Div	CR	0.0	34.0	4.0	0	0	RHA 1960.
Catfish Point CS	LA Cameron	Mermentau R	FN	0.0	1.2	1.2	0	0	FCA Aug 41, RHA Jul 64.
Charenton FG	LA St Mary	Grand Lk	FN	0.0	0.0	0.0	0	0	RHA Jul 46, FCA May 28.
Cocodrie FG FG	LA Concorida	Bayou Cocodrie	F	0.0	46.0	13.0	0	0	FCA Aug 41.
Collins Cr	MS Warren	Collins Cr	F	0.0	84.0	67.0	0	0	FCA 1941.
Columbia L&D	LA Caldwell	Ouachita	N	0.0	52.0	34.0	0	0	RHA 1950.
Connerly CS	AR Chicot	Connerly Bayou	FCR	0.0	116.0	106.0	0	0	FCA Aug 68.
Courtableau Drainage CS	LA St Landry	Bayou Courtableau	F	0.0	18.0	16.0	0	0	FCA May 28, PL 391-70.
Darbonne CS	LA St. Landry	Bayou Darbonne	FI	0.0	18.0	16.0	0	0	FCA May 28.
DeGray LK	AR Desoto	Caddo	PM	0.0	423.0	345.0	0	0	RHA 1950.
			FPM	620.4	423.0	367.0	17,000	6,000	
DeGray Rereg. St	AR Clark	Caddo	F	0.0	221.0	197.0	0	0	RHA 1950.
			FM	2.4	221.0	209.0	430	90	
Ditch Bayou Dam	AR Chicot	Ditch Bayou	FCR	0.0	106.0	93.0	0	0	FCA Aug 68.

APPENDIX E—LIST OF PROJECTS—Continued

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
Drainage Dist #17 PS	AR Mississipp	Ditch 17	F	0.0	0.0	0.0	4,100	0	FCA Aug 68, PL 90-483.
Drinkwater PS	MO Mississipp	Drinkwater Sewer	F	20.6	315.0	307.0	4,000	700	FCA May 50, PL 516.
Dupre FG	LA St Bernard	Bayou Dupre	F	0.0	2.0	2.0	0	0	PL 298-89.
East St Louis PS	IL St. Clair	IDD	F	0.0	0.0	0.0	0	0	FC Act 36.
Empire FG Hurr Prot & Lock.	LA Plaque mines	Mississippi R	F	0.0	5.0	5.0	0	0	PL 874-87.
Enid Lk	MS Yalobusha	Yacona	F	602.4	268.0	230.0	28,000	6,100	FCA Jun 36.
Felsenthal L&D	AR Union	Ouachita	N	0.0	62.0	53.1	0	0	RHA 1950.
Finley Street PS	TN Dyer	Forked Deer	F	0.5	269.0	257.0	94	22	FCA 1948, PL 85-500.
Freshwater Lock	LA Vermilion	Freshwater Bayou	I	0.0	0.0	0.0	0	0	PL 86-445.
			NI						
Graham Burke PS	AR Phillips	White	F	2,805.0	174.8	140.0	149,000	2,500	FCA May 28, PL 85-500.
Grenada Lk	MS Grenada	Yalobusha Skuna	F	1,251.7	231.0	193.0	64,600	9,800	FCA Jun 36.
Huxtable PS	AR Lee	St Francis	F	2,863.0	207.2	165.0	18,500	1,400	FCA May 50.
Jonesville L&D	LA Catahoula	Black	N	0.0	34.0	4.0	0	0	RHA 1950.
Kaskaskia L&D	IL Randolph	Kaskaskia R	N	1.1	368.0	363.0	0	0	SD 44.
L&D 1	LA Catahula	Red R	N	0.0	58.5	40.0	0	0	PL 90-483.
L&D 2	LA Rapides	Red R	N	0.0	71.2	64.0	0	0	PL 90-483.
L&D 3	LA Rapides	Red R	N	0.0	95.0	91.5	0	0	PL 90-483.
L&D 4	LA Natchitoches	Red R	N	0.0	120.0	119.6	0	0	PL 90-483.
L&D 5	LA Red R	Red R	N	0.0	145.0	140.2	0	0	PL 90-483.
L&D 24	MO Pike	Mississippi R	N	29.7	449.0	445.0	0	0	R&H Act, Jul 3/30. R&H Act, Aug 30/35.
L&D 25	MO Lincoln	Mississippi R	N	49.7	434.0	429.7	0	0	R&H Act, Jul 3/30. R&H Act, 8/30/35.
L&D 26	IL Madison	Mississippi R	N	107.1	419.0	414.0	0	0	R&H Act, Jul 3/30. R&H Act, 8/30/1935.
Larose to Golden Meadow Hurr Prot FG.	LA LaFourche	Bayou LaFourche	F	0.0	3.0	3.0	0	0	FCA Oct 65, PL 89-298.
Little Sun flower CS	MS Issaquena	Lit. Sunflower	F	0.0	85.0	60.0	0	0	FCA 1941.
Lk #9 Culvert & PS	KY Fulton	Mississippi	F	6.5	286.0	282.0	0	0	FCA Oct 65.
Lk Chicot PS	AR Chicot	Macon Lk	FCR	0.0	118.2	90.0	0	0	FCA Aug 68.
Lk Greeson	AR Pike	Little Missouri	P	0.0	563.0	436.9	0	0	FCA 1941.
			PF	330.3	563.0	504.0	9,800	2,500	
Lk Ouachita	AR Garland	Ouachita	P	0.0	592.0	480.0	0	0	FCA Dec 44.
Long Branch DS	LA Catahoula	Catahoula Div	F	0.0	110.0	84.0	0	0	FCA May 50.
Mark Twain Lk	MO Ralls	Salt R	F	894.0	638.0	606.0	38,400	18,600	HD 507.
			PMCAR	457.0	606.0	567.2	0	5,900	
Marked Tree Siphon	AR Poinsett	St. Francis	F	0.0	229.0	198.3	0	0	FCA Jun 30.
Morganza Div CS	LA Point Coupee	Morganza Floodway	F	0.0	59.5	49.0	0	0	FCA May 28.
Muddy Bayou CS	MS Warren	Muddy Bayou	FC	0.0	77.0	68.5	0	0	FCA Oct 65.
Old River Div CS Low Sill Overbank & Aux.	LA W. Feliciana	Old R	F	0.0	70.0	5.0	0	0	PL 83-780.
Old River Lock	LA W Feliciana	Old R	N	0.0	65.4	10.0	0	0	FCA Sep 54, PL 780-83.
Port Allen Lock	LA Port Allen	GIWW	N	0.0	46.1	2.6	0	0	RHA Jul 46.
Prairie Dupont East & West PS.	IL St Clair	IDD	F	0.0	0.0	0.0	0	0	FC Act 62.
Rapides-Boeuf Div Canal CS.	LA Rapides	Bayou Rapides	F	0.0	66.0	62.2	0	0	FCA Aug 41, GD 359-77.
Rend Lk	IL Franklin	Big Muddy R	F	109.0	405.0	410.0	24,800	18,900	HD 541.
			MA	160.0	405.0	391.3	0	5,400	
Sardis Lk	MS Panola	Little Sunflower	F	1,461.9	281.4	236.0	58,500	10,700	FCA Jun 36.
Schooner Bayou CS & Lock	LA Vermilion	Schooner Bayou	I	0.0	1.2	1.2	0	0	FCA Aug 41.
Shelbyville Lk	IL Shelby	Kaskaskia R	F	474.0	626.5	599.7	25,300	11,100	HD 232.
			NMCAR	180.0	599.7	573.0	0	3,000	
Sorrell Lock	LA Iberville	GIWW		0.0	18.0	16.0	0	0	FCA May 28.
St Francis Lk CS	AR Poinsett	Oak Donnick Floodway	C	0.0	0.0	210.0	0	2,240	FCA Oct 65.
Steele Bayou CS	MS Issaquena	Steele Bayou	F	0.0	68.5	60.0	0	0	FCA 1941.
Tchula Lk Lower FG	MS Humphreys	Tchula Lk	F	0.0	110.0	84.0	0	0	FCA Jun 36.
Tchula Lk Upper FG	MS Humphreys	Tchula Lk	F	0.0	108.0	92.0	0	0	FCA Jun 36.
Teche-Vermilion PS & CS	LA St Mary	Atchafalaya R	MI	16.0	18.0	0.0	0	0	PL 89-789, FCA May 28.
Tensas-Cocodrie PS	LA Cocordia	Bayou Corcodrie	F	0.0	37.0	23.0	0	0	FCA Oct 65.
Treasure Island PS	MO Dunklin	Little R	F	23.4	252.0	235.0	7,800	180	FCA Jul 46.
Wallace Lk	LA Caddo	Cypress Bayou	F	88.3	158.0	142.0	9,300	2,300	RHA Mar 45, PL 75-761.
Wappapello Lk	MO Wayne	St Francis R	F	613.2	394.7	354.7	23,200	5,200	HD 159.
Wasp Lk	MS Humphreys	Wasp Lk-Bear Cr	F	0.0	111.6	88.5	0	0	FCA Jun 36.
West Hickman PS	KY Fulton	Mississippi	F	0.0	302.0	296.0	9	4	FCA 1948.
Wood R PS	IL Madison	IDD	F	0.0	0.0	0.0	0	0	FC Act 38.

APPENDIX E—LIST OF PROJECTS—Continued

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
Yazoo City PS	MS Yazoo	Yazoo	F	0.0	96.0	69.0	0	0	FCA Jun 36.
			Missouri River Division						
Bear Creek Dam & Res	CO Jefferson	Bear Cr	F	28.8	5,635.5	5,558.0	718	109	PL 90-483.
			FCR	1.9	5,558.0	5,528.0	109	17	SD 87-90.
Big Bend Dam & Lk Sharpe	SD Lyman Buffalo Hughes.	Missouri R	F	61.0	1,423.0	1,422.0	61,000	60,000	PL 78-534.
			FNPIMCAR	117.0	1,422.0	1,420.0	60,000	57,000	SD 247-78.
Blue Springs Dam & Lk	MO Jackson	Little Blue R	F	15.8	820.0	802.0	982	722	PL 90-483.
			FRC	10.8	802.0	760.0	722	0	HD 169-90.
Blue Stem Lake & Dam 4	NE Lancaster	Olive Br. Salt Creek	F	7.2	1,322.5	1,307.4	660	315	PL 85-500.
			FCR	3.0	1,307.4	1,277.0	315	1	HD 396-84.
Bowman-Haley Dam & Res	ND Bowman	No Fk Grand River	F	72.7	2,777.0	2,754.8	5,131	1,732	PL 87-874.
			FMCR	15.5	2,754.8	2,740.0	1,732	565	HD 574-87.
Branched Oak Lk & Dam 18.	NE Lancaster	Oak Creek trib. Salt Creek.	F	71.6	1,311.0	1,284.0	3,640	1,780	PL 85-500.
			FCR	26.0	1,284.0	1,250.0	1,780	0	HD 396-84.
Bull Hook Dam	MT Hill	Bull Hook Cr Scott Coulee.	F	6.5	2,593.0	2,540.0	0	0	PL 78-534.
Cedar Canyon Dam	SD Pennington	Deadman's Gulch	F	0.1	3,545.0	3,526.0	11	2	PL 80-858.
Chatfield Dam & Res	CO Douglas	S Platte	F	204.7	5,500.0	5,432.0	4,742	1,412	PL 81-516.
			FQ	26.7	5,432.0	5,385.0	1,412	12	HD 669-80.
Cherry Cr Dam & Res	CO Araphahoe	Cherry Cr	F	80.0	5,598.0	5,550.0	2,637	852	PL 77-228.
			FR	14.0	5,550.0	5,504.0	852	0	HD 426-76, PL 78-534.
Clinton Dam & Lk	KS Douglas	Wakarusa R	F	267.8	903.4	875.5	12,891	7,006	PL 87-874.
			FMCAR	129.2	875.5	820.0	7,006	0	SD 122-87.
Cold Brook Dam & Res	SD Fall River	Cold Brook	F	6.7	3,651.4	3,585.0	198	36	PL 77-228.
			FR	0.5	3,585.0	3,548.0	36	0	HD 655-76.
Conestoga Lake & Dam 12	NE Lancaster	Holmes Cr Trib to Salt Cr.	F	8.0	1,252.0	1,232.9	620	230	PL 85-500.
			FCR	2.6	1,232.9	1,197.0	230	1	HD 396-84.
Cottonwood Springs Dam & Res.	SD Fall River	Cottonwood Springs Cr	F	7.7	3,936.0	3,875.0	214	44	PL 77-228.
			FR	0.2	3,875.0	3,868.0	44	30	HD 655-76.
Fort Peck Dam & Res	MT Valley, Mc Cone Garfield.	Missouri R	F	977.0	2,250.0	2,246.0	249,000	240,000	PL 73-409.
			FNPIMCAR	13,649.0	2,246.0	2,160.0	240,000	92,000	PL 75-529, HD 238-73. PL 78-534, SD 247-78.
Fort Randall Dam, Lk Francis Case.	SD Gregory Charles	Missouri R	F	985.0	1,375.0	1,365.0	102,000	95,000	PL 78-534.
			FNPIMCAR	3,021.0	1,365.0	1,320.0	95,000	41,000	SD 247-78.
Garrison Dam, Lk Sakakawea.	ND Mercer McLean	Missouri R	F	1,494.0	1,854.0	1,850.0	382,000	365,000	PL 78-534.
			FNPIMCAR	17,440.0	1,850.0	1,775.0	365,000	129,000	SD 247-78.
Gavins Point Dam, Lewis & Clark Lk.	SD Yankton	Missouri R	F	61.0	1,210.0	1,208.0	32,000	29,000	PL 78-534.
	NE Knox		FNPIMCAR	95.0	1,208.0	1,204.5	29,000	25,000	SD 247-78.
Glenn Cunningham Lk, Dam 11.	NE Douglas	Little Papillion Cr	F	14.0	1,142.0	1,121.0	922	392	PL 90-483.
			FRCA	3.9	1,121.0	1,085.0	392	0	HD 349-90.
Harlan County Lk	NE Harlan	Republican R	F	498.0	1,973.5	1,946.0	23,064	13,249	PL 77-228.
			FI	342.6	1,946.0	1,875.0	13,249	0	HD 892-76, PL-78-534.
Harry S Truman Dam & Res.	MO Benton	Osage R	F	4,005.9	739.6	706.0	209,300	55,600	PL 83-780.
			FPCR	1,203.4	706.0	635.0	55,600	0	HD 549-81, PL 87-874. HD 578-87.
Hillsdale Lk	KS Miami	Big Bull Cr	F	83.6	931.0	917.0	7,410	4,580	PL 83-780.
			FNMCAR	76.3	917.0	852.4	4,580	0	HD 642-81.
Holmes Park Lk & Dam 17	NE Lancaster	Antelope Cr Trib to Salt Cr.	F	5.7	1,266.0	1,242.4	410	100	PL 85-500.
			FCR	0.8	1,242.4	1,218.0	100	3	HD 396-84.
Kanopolis Lk	KS Ellsworth	Smoky Hill R	F	370.0	1,508.0	1,463.0	13,999	3,560	PL 75-761.
			FI	55.8	1,463.0	1,425.0	3,560	0	PL 78-534, HD 842-76.
Kelly Road Dam	CO Araphoe	Westerly Cr	F	0.3	5,362.0	5,342.0	38	0	PL 80-858, PL 84-99.
Long Branch Lk	MO Randolph	Little East Fk Chariton R.	F	30.4	801.0	791.1	3,670	2,429	PL 89-298.
			FCAR	34.6	791.0	751.1	2,429	0	HD 238-89.
Longview Lk	MO Jackson	Little Blue R	F	24.8	909.0	891.0	1,960	930	PL 90-483.
			FCAR	22.1	891.0	810.0	930	0	HD 169-90.

APPENDIX E—LIST OF PROJECTS—Continued

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
Melvern Lk	KS Osage	Marais des Cygnes R	F	208.4	1,057.0	1,036.0	13,948	6,928	PL 83-780.
			FNMCAR	154.4	1,036.0	960.0	6,928	0	PL 75-761, HD 549-81.
Milford Lk	KS Geary	Republican R	F	756.7	1,176.2	1,144.4	27,255	17,270	PL 83-780.
			FCA	388.8	1,144.4	1,080.0	15,709	0	HD 642-81, PL 75-761.
Oahe Dam & Lk	ND 4 Counties, SD 8 Counties	Missouri R	F	1,097.0	1,620.0	1,617.0	373,000	359,000	PL 78-534.
			FNPIMCAR	16,789.0	1,617.0	1,540.0	359,000	117,000	SD 247-78.
Olive Cr Lk & Dam 2	NE Lancaster	Olive Br of Salt Cr	F	4.0	1,350.0	1,335.0	355	174	HD 396-84.
			FCR	1.5	1,335.0	1,314.0	174	4	PL 85-500.
Papio Dam Site #18 & Lk	NE Douglas	Boxelder Cr Papio Cr	F	7.1	1,128.2	1,110.0	595	255	PL 90-483.
			FCAR	3.4	1,110.0	1,060.5	255	0	HD 349-90.
Papio Dam Site #20 & Lk	NE Sarpy	Trib South Branch Papio.	F	6.1	1,113.1	1,096.0	493	246	PL 90-483.
			FCAR	2.7	1,096.0	1,069.0	246	10	HD 349-90.
Pawnee Lk & Dam 14	NE Lancaster	No. Middle Cr of Salt Cr.	F	21.0	1,263.5	1,244.3	1,470	728	PL 85-500.
			FCR	8.5	1,244.3	1,206.0	728	1	HD 396-84.
Perry Lk	KS Jefferson	Delaware R	F	521.9	920.6	891.5	25,342	12,202	PL 83-780.
			FN	243.2	891.5	825.0	122	0	HD 642-81.
Pipestem Dam & Res	ND Stutsman	Pipestem Cr	F	137.0	1,496.3	1,442.4	4,754	885	PL 89-298.
			FRC	9.6	1,442.4	1,415.0	885	62	HD 266-89.
Pomme De Terre Lk	MO Polk	Pomme De Terre R	F	407.2	874.0	839.0	15,980	7,890	PL 75-761.
			FNPCAR	241.6	839.0	750.0	7,890	0	HD 549-81, PL 83-780.
Pomona Lk	KS Osage	110 Mile Cr	F	176.8	1,003.0	974.0	8,520	400	PL 83-780.
			FNMAR	70.6	974.0	912.0	4,000	0	HD 549-81.
Rathbun Lk	IA Appanoose	Chariton R	F	346.3	926.0	904.0	20,948	11,013	PL 83-780.
			FNM	205.4	904.0	844.0	11,013	0	HD 561-81.
Smithville Lk	MO Clay	Little Platte R	F	101.8	876.2	864.2	9,995	7,192	PL 89-298.
			FMCAR	144.6	864.2	799.0	7,192	0	HD 262-89.
Spring Gulch Imbankment	CO Douglas	Spring Gulch	F	1.8	5,600.00	5,535.0	88	0	PL 81-516, HD 669-80.
Stagecoach Lk & Dam 9	NE Lancaster	Hickman Br of Salt Cr	F	4.7	1,285.0	1,271.1	490	196	PL 85-500.
			FRC	1.9	1,271.1	1,246.0	196	0	HD 396-84.
Standing Bear Lk & Dam 16.	NE Douglas	Trib Big Papillion Cr	F	3.7	1,121.0	1,104.0	302	137	PL 90-483.
			FRC	1.5	1,104.0	1,060.0	137	0	HD 349-90.
Stockton Lk	MO Cedar	Sac R	F	779.6	892.0	867.0	38,288	24,777	PL 83-780.
			FARPN	887.1	867.0	760.0	24,777	0	HD 549-89.
Tuttle Creek Lk	KS Riley	Big Blue R	F	1,937.4	1,136.0	1,075.0	54,179	14,875	PL 75-761.
			FN	177.1	1,075.0	1,061.0	14,875	0	HD 842-76.
Twin Lakes & Dam 13	NE Seward	Middle Cr Salt Cr	F	5.3	1,355.0	1,341.0	505	255	PL 85-500.
			CFR	2.8	1,341.0	1,306.0	255	1	HD 396-84.
Wagon Train Lk & Dam 8	NE Lancaster	Hickman Br of Salt Cr	F	6.8	1,302.0	1,287.8	660	303	PL 85-500.
			FCR	2.5	1,287.8	1,260.0	303	4	HD 396-84.
Wilson Lk	KS Russell	Saline R	F	530.7	1,554.0	1,516.0	19,980	9,040	PL 78-534.
			FRC	247.8	1,516.0	1,440.0	9,040	0	SD 191-78, SD 247-78.
Yankee Hill Lk & Dam 10	NE Lancaster	Cardwell Br of Salt Cr	F	5.6	1,262.0	1,244.9	475	208	PL 85-500.
			FCR	2.0	1,244.9	1,218.0	208	0	HD 396-84.
North Atlantic Division									
Almond Lake	NY Steuben	Canacadea Cr	F	14.6	1,300.0	1,255.0	489	124	PL 74-738.
Alvin R. Bush Dam	PA Clinton	Kettle Cr	F	73.4	937.0	840.0	1,430	160	FCA Sep 54.
Arkport Dam	NY Steuben	Canisteo R	F	8.0	1,304.0	1,218.0	192	0	PL 74-738.
Aylesworth Cr Lk	PA Lackawanna	Aylesworth Cr	F	1.7	1,150.0	1,108.0	87	7	PL 87-874.
Beltzville Dam & Lk	PA Carbon, Monroe	Pohopoco Cr	F	27.0	651.0	628.0	1,411	947	PL 87-874.
			FMA	39.8	628.0	537.0	947	113	
Bloomington Lk	MD Garret	North Branch Potomac R.	F	36.2	1,500.0	1,466.0	1,184	952	PL 87-874.
			FMA	92.0	1,466.0	1,255.0	952	42	
Blue Marsh Dam & Lk	PA Lebanon Berks	Tulpehocken CR	F	27.1	307.0	290.0	2,159	1,147	PL 87-874.
			FMA	19.9	290.0	261.0	1,147	323	
Cowanesque Lk	PA Tioga	Cowanesque R	F	82.0	1,117.0	1,045.0	2,060	410	PL 85-500.
Curwensville Lk	PA Clearfield	West Branch Susquehanna R.	F	114.7	1,228.0	1,162.0	3,020	790	FCA Sep 54.
East Sidney Lk	NY Delaware	Ouleout Cr	F	30.2	1,203.0	1,150.0	1,100	210	PL 74-738.
Foster Joseph Sayers Dam	PA Carbon, Luzerne, Monroe.	Bald Eagle Cr	F	70.2	657.0	630.0	3,450	1,730	FCA Sept 54.
Francis E. Walter Dam Res	PA Centre	Lehigh R	F	107.8	1,450.0	1,300.0	1,830	80	PL 79-526.
Gathright Dam & Lk	VA Alleghany, Bath	Jackson R	F	79.9	1,610.0	1,582.0	3,160	2,530	PL 79-526.
Moomaw.									
			AR	60.7	1,582.0	1,554.0	2,530	1,780	
General Edgar Jadwin Dam	PA Wayne	Dyberry Cr	F	24.5	1,053.0	973.0	659	0	PL 80-858.
Prompton Dam & Res	PA Wayne	W Br Lackawaxen R	F	48.5	1,205.0	1,125.0	910	290	PL 80-858.

APPENDIX E—LIST OF PROJECTS—Continued

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
Raystown Lk	PA Huntingdon	Raystown Br	F	248.0	812.0	786.0	10,800	8,300	PL 87-874.
			FR	514.0	786.0	622.8	8,300	150	
Stillwater Lk	PA Susquehanna	Lackawanna R	F	11.6	1,621.0	1,572.0	422	83	PL 77-228.
Tioga-Hammond Lakes Hammond.	PA Tioga	Crooked Cr	F	54.2	1,131.0	1,086.0	1,770	680	PL 85-500.
Tioga-Hammond Lakes Tioga.	PA Tioga	Tioga R	F	52.5	1,131.0	1,081.0	1,630	470	PL 85-500.
Whitney Piont Lk	NY Broome	Otselic R	F	66.5	1,010.0	973.0	3,340	1,200	PL 74-738.
York Indian Rock Dam	PA York	Codorus Cr	F	28.0	435.0	370.0	1,430	0	PL 74-738.
		North Central Division							
Badhill Dam & Res	ND Barnes	Sheyenne R	FM	68.6	1,266.0	1,257.2	5,430	4,430	FCA Dec 44.
Brandon Road L&D	IL Will	Illinois R	N	1.8	539.0	538.0	81	0	PL 71-126.
Cedars L&D	WI Outagamie	Fox R	N	1.8	703.6	698.7	255	0	RHA of 1882, 1885.
Coralville Dam & Res	IA Johnson	Iowa R	F	439.0	712.0	680.0	24,800	3,580	PL 75-761.
			C	40.3	680.0	652.0	3,580	0	PL 75-761.
Depree L&D	WI Brown	Fox R	N	9.4	591.0	586.7	926	0	PL 71-126.
Dresden Island L&D	IL Grundy	Illinois R	N	15.2	505.0	504.0	1,690	0	FCA 1958.
Eau Galle Dam & Res	WI Pierce	Eau Galle R	FCR	1.6	940.0	938.5	1,500	1,350	PL 78-534.
Farmdale Dam	IL Tazwell	Farm Cr	F	11.3	616.0	551.0	385	0	PL 78-534.
Fondulac Dam	IL Tazwell	Fondulac Cr	F	2.3	579.0	530.0	97	0	PL 78-534.
Gull Lk Dam & Res	MN Cass	Gull R	N	70.4	1,194.0	1,192.7	13,100	12,700	RHA 1899.
Highway 75 Dam & Res	MN Bigstone, Lacqui, Parle.	Minnesota R	FC	11.1	952.3	947.3	2,790	910	FCA Oct 65.
Homme Dam & Res	ND Walsh	Park R	FM	3.7	1,080.0	1,074.0	190	176	FCA of 22 Dec 44.
L&D 1	MN Hennepin, Ramsey	Mississippi R	N	7.7	725.1	722.8	5,600	0	RHA 1910.
L&D 2	MN Dakota, Wash	Mississippi R	N	35.9	687.2	686.0	11,810	0	RHA 1927.
L&D 3	MN Goodhue, Pierce	Mississippi R	N	143.1	675.0	674.0	17,950	0	RHA 1930.
L&D 4	WI Wabasha, Buffalo	Mississippi R	N	282.4	667.0	666.5	38,820	0	RHA 1930.
L&D 5	MN Winona, Buffalo	Mississippi R	N	29.9	660.0	659.5	12,580	0	RHA 1930.
L&D 5A	MN Winona, Buffalo	Mississippi R	N	15.0	651.0	650.0	7,000	0	RHA 1930.
L&D 6	MN Winona	Mississippi R	N	21.0	645.5	644.5	8,870	0	RHA 1930.
L&D 7	MN Winona, WI LaCrosse	Mississippi R	N	37.3	639.0	639.0	13,440	0	RHA 1930.
L&D 8	MN Houston, WI Vernon	Mississippi R	N	54.7	631.0	630.0	20,800	0	RHA 1930.
L&D 9	WI Crawford, IA Allamakee	Mississippi R	N	92.4	620.0	619.0	66,610		RHA 1930.
L&D 10	IA Clayton, WI Grant	Mississippi R	N	58.3	611.0	610.0	79,370	0	RHA 1930.
L&D 11	IA Dubuque	Mississippi R	N	150.0	603.1	602.0	21,100	0	PL 71-520.
L&D 12	IA Jackson	Mississippi R	N	90.0	592.1	591.0	13,000	0	PL 71-520.
L&D 13	IL Whiteside	Mississippi R	N	164.0	583.1	582.0	30,000	0	PL 71-520.
L&D 14	IA Scott	Mississippi R	N	80.0	572.1	571.0	10,500	0	PL 71-520.
L&D 15	IL Rock Island	Mississippi R	N	32.0	561.1	559.0	37,300	0	PL 71-520.
L&D 16	IL Rock Island	Mississippi R	N	100.0	545.1	544.0	13,000	0	PL 71-520.
L&D 17	IL Mercer	Mississippi R	N	41.6	537.1	536.0	7,580	0	PL 71-520.
L&D 18	IL Henderson	Mississippi R	N	90.0	529.1	528.0	13,600	0	PL 71-520.
L&D 19	IA Lake	Mississippi R	N	0.0	518.2	517.2	0	0	PL 71-520.
L&D 20	MO Lewis	Mississippi R	N	80.0	481.5	476.5	7,950	0	PL 71-520.
L&D 21	IL Adams	Mississippi R	N	70.0	470.1	469.6	9,880	0	PL 71-520.
L&D 22	MO Polke	Mississippi R	N	85.0	459.6	459.1	8,840	0	PL 71-520.
Lac qui Parle Dam & Res	MN Chippewa Swift	Minnesota R	FC	119.3	941.1	931.2	13,500	6,400	FCA of 22 Jun 36.
Lagrange L&D	IL Brown	Illinois R	N	0.0	429.0	429.0	0	0	PL 73-184.
Leech Lake Dam & Res	MN Cass	Leech R	N	300.2	1,295.7	1,293.2	139,000	107,200	RHA of 1882 1895.
Little Kaukauna L&D	WI Brown	Fox R	N	3.6	601.0	592.8	447	0	RHA of 1882 1885.
Little Chute L&D	WI Outagamie	Fox R	N	0.4	694.2	688.9	74	0	RHA of 1882 1885.
Lockport Lock	IL Will	Chicago San Ship Canal.	FNP	0.0	579.0	577.5	0	0	RHA 1930.
Lower Appleton L&D	WI Outagamie	Fox R	N	0.2	710.9	706.3	43	0	RHA of 1882 1895.
Marseilles Lk & Dam	IL LaSalle	Illinois R	N	1,216.0	483.0	482.8	1,400	0	PL 71-126.
Marsh Lake Dam & Res	MN Swift, Lacqui, Parle	Minnesota R	FC	23.9	941.1	937.6	8,650	5,150	FCA Jun 36.
Menasha Dam Lk Winnebago.	WI Winnebago	Fox R	FN	452.0	746.8	743.5	181,120	168,500	
Mount Morris Dam	NY Livingston	Genesee R	F	337.4	760.0	585.0	3,300	0	PL 74-738.
O'Brien L&D	IL Cook	Calumet	N	0.0	581.9	578.2	0	0	RHA of 1946.
Peoria L&D	IL Peoria	Illinois R	N	0.0	440.0	440.0	0	0	PL 73-184.
Pine Dam & Res	MN Crow Wing	Pine R	N	40.4	1,230.3	1,227.3	13,900	13,000	RHA of 1899.
Pokegama Dam & Res	MN Itasca	Mississippi R	N	52.4	1,274.4	1,270.3	13,700	12,000	RHA of 1899.
Rapid Croche L&D	WI Outagamie	Fox R	N	3.4	608.5	602.1	568	0	RHA 1885.
Red Lake Dam & Res	MN Clearwater	Red Lake R	FA	1,810.0	1,174.0	1,173.5	288,800	287,300	FCA Dec 44.
Red Rock Dam & Res	IA Marion	Des Monies R	F	1,670.0	780.0	728.0	65,400	8,000	PL 75-761.
			R	72.0	728.0	690.0	8,000	0	PL 75-761.
Reservation Control Res	MN Traverse		FC	58.8	981.0	976.0	12,400	10,950	FCA 1936.

APPENDIX E—LIST OF PROJECTS—Continued

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
	SD Roberts								
Sandy Lake Dam & Res	MN Aitkin	Sandy R	N	37.5	1,218.3	1,214.3	10,600	8,200	RHA of 1899.
Saylorville Dam & Res	IA Polk	Des Moines R	F	586.0	890.0	836.0	16,700	5,950	FCA 1936.
			P	90.0	836.0	810.0	5,950	0	FCA.
St Anthony Falls Lwr L&D	MN Hennepin	Mississippi R	N	0.0	750.0	750.0	50	50	RHA of 1937 1945.
St Anthony Falls Upr L&D	MN Hennepin	Mississippi R	N	0.0	801.0	799.0	0	0	RHA of 1937 1945.
Starved Rock L&D	IL LaSalle	Illinois R	N	10.4	459.0	458.0	1,155	0	PL 69-100.
Upper Appleton L&D	WI Outagamie	Fox R	N	7.4	738.7	735.4	1,171	0	RHA of 1882 1885.
Upper Kaukauna L&D	WI Outagamie	Fox R	N	1.1	656.8	652.8	134	0	RHA of 1882 1885.
White Rock Dam & Res	MN Traverse	Bois De Souix	FC	78.6	981.0	972.0	10,500	4,000	FCA 1936.
	SD Roberts								
Winnibigoshish Dam & Res	MN Cass Itasca	Mississippi R	N	98.7	1,300.9	1,296.9	98,700	62,000	RHA of 1899.
New England Division									
Ball Mountain Lk	VT Windham	West R	F	52.4	1,017.0	830.5	810	20	PL 78-534, 83-780.
Barre Falls Dam	MA Worcester	Ware R	F	24.0	807.0	761.0	1,400	0	PL 78-228.
Birch Hill Dam	MA Worcester	Millers R	F	49.9	852.0	815.0	3,200	0	PL 75-761.
Black Rock Lk	CT Litchfield	Branch Brook	F	8.5	520.0	437.0	190	21	PL 86-45.
Blackwater Dam	NH Merrimack	Blackwater R	F	46.0	566.0	515.0	3,280	0	PL 75-111.
Buffumville Lk	MA Worcester	Litter R	F	11.3	524.0	492.5	530	200	PL 77-228.
Colebrook River Lk	CT Litchfield	West Branch	F	50.2	761.0	708.0	1,185	750	PL 86-645.
	MA Bekshire	Farmington R							
Conant Brook Dam	MA Hampden	Conant Brook	F	3.7	757.0	694.0	158	0	PL 86-645.
East Brimfield Lk	MA Hampden, Worcester.	Quinebaug R	F	29.9	653.0	632.0	2,300	360	PL 77-228.
Edward MacDowell Lk	NH Hillsboro	Nubanusit Brook	F	12.8	946.0	911.0	840	165	PL 75-111.
Everett Lk	NH Hillsboro, Merrimack.	Piscataquog R	F	91.5	418.0	340.0	2,900	130	PL 75-761.
Franklin Falls Dam	NH Belknap, Merrimack.	Pemigewasset R	F	150.6	389.0	307.0	2,800	440	PL 75-111.
Hancock Brook Lk	CT Litchfield	Hancock Brook	F	3.9	484.0	460.0	266	40	PL 86-645.
Hodges Village Dam	MA Worcester	French R	F	13.3	501.0	465.5	740	0	PL 77-228.
Hop Brook Lk	CT New Haven	Hop Brook	F	6.9	364.0	310.0	270	21	PL 86-645.
Hopkinton Lk	NH Merrimack	Contoocook R	F	70.1	416.0	380.0	3,700	220	PL 75-761.
Knightville Dam	MA Hampshire	Westfield R	F	49.0	610.0	480.0	960	0	PL 75-761.
Littleville Lk	MA Hampden, Hampshire.	Middle Br, Westfield R	F	23.0	576.0	518.0	510	275	PL 85-500.
Mansfield Hollow Lk	CT Tolland	Natchaug R	F	49.2	257.0	205.5	1,880	200	PL 77-228.
New Bedford-Fairhaven Hurr Barrier.	MA Bristol		F	0.0	0.0	0.0	0	0	PL 85-500.
North Hartland Lk	VT Windsor	Ottauquechee R	F	68.8	546.5	425.0	1,100	215	PL 75-761.
North Springfield Lk	VT Windsor	Black R	F	50.0	545.5	467.0	1,200	100	PL 75-761.
Northfield Br Lk	CT Litchfield	Northfield Br	F	2.4	576.0	500.0	67	7	PL 86-645.
Otter Br Lk	NH Cheshire	Otter Brook	F	17.6	781.0	701.0	374	70	PL 83-780.
Stamford Hurr Barrier	CT Fairfield		F	0.0	0.0	0.0	0	0	PL 86-645.
Surry Mountain Lk	NH Cheshire	Ashuelot R	F	31.7	550.0	500.0	970	260	PL 75-761.
Thomaston Dam	CT Litchfield	Naugatuck R	F	42.0	494.0	380.0	960	0	PL 78-534.
Townshend Lk	VT Windham	West R	F	32.9	553.0	478.0	735	95	PL 78-534, PL 83-780.
Tully Lk	MA Worcester	East Br Tully R	F	20.5	668.0	636.0	1,130	78	PL 75-761.
Union Village Dam	VT Orange	Ompompanoosuc R	F	38.0	564.0	420.0	740	0	PL 74-738.
West Hill Dam	MA Worcester	West R	F	12.4	264.0	234.0	1,025	0	PL 78-534.
West Thomspon	CT Windham	Quinebaug R	F	25.6	342.5	305.0	1,250	200	PL 86-645.
Westville Lake	MA Worcester	Quinebaug R	F	11.0	572.0	525.0	913	23	PL 77-228.
North Pacific Division									
Albeni Falls Dam, Lk Pend, Oreille.	ID Bonner	Pend Oreille R	FNP	1,155.0	2,062.5	2,049.7	95,000	86,000	PL 81-516.
Applegate Lk	OR Jackson	Applegate R	FIR	75.2	1,987.0	1,854.0	988	221	FCA 1962, PL 87-874, PL 87-874.
Big Cliff Dam	OR Marion, Linn	N Santiam R	P	3.5	1,206.0	1,182.0	130	98	HD 544, PL 75-761, PL 87-874.
Blue River Lk	OR Lane	Blue R	F	6.5	1,357.0	1,350.0	975	940	HD 531.
			FNI	78.8	1,350.0	1,180.0	940	133	PL 81-516.
Bonneville L&D Lk	WA Skamania	Columbia R	NP	138.0	77.0	70.0	20,800	19,850	RHA 1935.
Chena River Lakes	AK North Star Burough	Chena R	F	34.0	506.7	490.0	5,400	400	PL 90-483.
Chief Joseph Dam Rufus Woods Lk.	WA Douglas, Okanogan.	Columbia R	P	192.3	956.0	930.0	8,400	6,800	HD 693, PL 79-525.
Cottage Grove Lk	OR Lane	Coast Fk, Willamete R	F	29.8	791.0	750.0	1,155	295	HD 544, PL 75-761.
Cougar Lk	OR Lane	South Fk	F	11.3	1,699.0	1,690.0	1,280	1,235	HD 531.
			FNPI	143.9	1,690.0	1,532.0	1,235	635	PL 81-516.
Detroit Lk	OR Marion	North Santiam	P	9.9	1,532.0	1,516.0	635	602	PL 83-870.
			F	19.1	1,569.0	1,563.0	3,490	3,455	HD 544, PL 75-761.
			FNPI	281.6	1,563.5	1,450.0	3,455	1,725	

APPENDIX E—LIST OF PROJECTS—Continued

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
			P	40.3	1,450.0	1,425.0	1,725	1,415	
Dexter Dam	OR Lane	Middle Fk, Willamette R.	FNPI	4.8	695.0	690.0	990	940	HD 544, PL 75-761.
Dorena Lk	OR Lane	Cow R	F	5.5	835.0	832.0	1,885	1,815	HD 544.
			FNI	65.0	832.0	770.5	1,815	520	PL 75-761.
Dworshak Dam and Res	ID Clearwater	North Fk, Clearwater R.	FNP	2,016.0	1,600.0	1,445.0	17,090	9,050	HD 403, PL 87-874.
Fall Cr Dam and Lk	OR Lane	Fall Cr	F	7.5	834.0	830.0	1,865	1,760	HD 531.
			FNI	107.5	830.0	728.0	1,760	460	PL 81-516
Fern Ridge Lk	OR Lane	Long Tom R	F	15.7	375.1	373.5	10,305	9,340	HD 544.
			FNI	93.9	373.5	353.0	9,340	1,515	PL 75-761
Foster Lake	OR Linn	South Santiam R	F	4.9	641.0	637.0	1,260	1,195	HD 544
			FNPI	24.9	637.0	613.0	1,195	895	PL 86-645
Green Peter Lk	OR Linn	Middle Fk, Santiam R	F	18.3	1,015.0	1,010.0	3,705	3,605	HD 531.
			FNPI	249.9	1,010.0	992.0	3,605	2,072	PL 81-516, PL 83-780.
Hells Canyon Dam & Res	OR Wallowa	Snake R	FP	11.7	1,688.0	1,683.0	2,380	2,280	1971-A.
	ID Adams								
Hills Creek Lk	OR Lane	Middle Fk, Willamette R.	F	5.6	1,543.0	1,541.0	2,850	2,710	HD 531.
			FNPI	194.6	1,541.0	1,448.0	2,710	1,575	PL 81-516.
Howard Hanson Dam	WA King	Green R	F	80.0	1,206.0	1,141.0	1,750	763	HD 531.
			FA	25.6	1,141.0	1,040.0	763	13	PL 81-516.
Ice Harbor Dam Lk Sacajawea.	WA Walla, Walla, Franklin.	Snake R	NP	24.9	440.0	437.0	8,370	8,210	HD 704, PL 79-14.
John Day Dam Lk Umatilla	OR Sherman	Columbia R	F	158.0	268.0	265.0	55,000	52,000	HD 531.
			FNP	150.0	265.0	262.0	52,000	49,000	PL 81-516.
			F	192.0	262.0	257.0	49,000	42,000	
Libby Dam Lk Koocanusa	MT Lincoln	Kootenai R	FP	4,979.5	2,459.0	2,287.0	46,365	14,391	HD 531, PL 81-516.
Little Goose L&D Lk Bryan	WA Columbia, Whitman.	Snake R	PN	49.0	638.0	633.0	10,030	9,620	HD 704, PL 79-14.
Lookout Point Lk	OR Lane	Middle Fk, Willamette R.	P	12.2	825.0	819.0	2,090	1,860	HD 544.
			FNPI	324.2	926.0	825.0	4,255	2,090	PL 75-761.
Lost Creek Lk	OR Jackson	Rogue R	FPIR	315.0	1,872.0	1,751.0	3,430	1,800	HD 566, PL 87-874.
Lower Granite L&D	WA Garfield, Whitman	Snake R	NPI	43.6	738.0	733.0	8,900	8,540	HD 704, PL 79-14.
Lucky Peak Dam and Lk	ID Ada	Boise R	F	13.9	3,060.0	3,055.0	2,817	2,745	PL 79-526.
			FI	264.4	3,055.0	2,905.0	2,817	802	
Lwr Monumental L&D Lk HG West.	WA Walla, Walla, Franklin.	Snake R	NP	20.0	540.0	537.0	6,700	6,550	HD 704, PL 79-14.
McNary L&D, Dam Lk Wallula.	WA Benton	Columbia R	NP	185.0	340.0	335.0	38,800	36,000	HD 704, PL 79-14.
	OR Umatilla								
Mill Creek Dam Lk	WA Walla, Walla	Mill Cr	F	7.5	1,265.0	1,205.0	225	53	HD 578, PL 75-761.
Mud Mountain Dam	WA King, Pierce	White R	F	106.3	1,215.0	895.0	963	0	PL 74-738.
The Dalles L&D Lk Celilo	WA Klickitat	Columbia R	NP	52.5	160.0	155.0	11,200	10,350	HD 531, PL 81-516.
	OR Wasco								
Willow Creek Lk	OR Morrow	Willow Cr	F	11.6	2,113.5	2,047.0	269	96	PL 89-298.
Wynoochee Dam and Lk	WA Grays, Harbor	Wynoochee R	FMCA	65.4	800.0	700.0	1,170	193	HD 601, PL 93-251.
Ohio River Division									
Allegheny L&D 2	PA Allegheny	Allegheny R	N	0.0	721.0	710.0	0	0	RHA 1935.
Allegheny L&D 3	PA Allegheny	Allegheny R	N	0.0	734.5	721.0	0	0	RHA 1935.
Allegheny L&D 4	PA Allegheny Westmoreland.	Allegheny R	N	0.0	745.0	734.5	0	0	RHA 1912.
Allegheny L&D 5	PA Armstrong	Allegheny R	N	0.0	756.8	745.0	0	0	RHA 1912
Allegheny L&D 6	PA Armstrong	Allegheny R	N	0.0	769.0	756.8	0	0	RHA 1912.
Allegheny L&D 7	PA Armstrong	Allegheny R	N	0.0	782.1	769.0	0	0	RHA 1912.
Allegheny L&D 8	PA Armstrong	Allegheny R	N	0.0	800.0	782.1	0	0	RHA 1912, 1935.
Allegheny L&D 9	PA Armstrong	Allegheny R	N	0.0	822.0	800.0	0	0	RHA 1935.
Allegheny Res Kinzua Dam	PA Warren	Allegheny R	F	607.0	1,365.0	1,328.0	21,180	12,080	PL 74-738.
			FPCAR	549.0	1,328.0	1,240.0	12,080	1,900	
Alum Cr Lk	OH Delaware	Alum Cr	F	53.1	901.0	888.0	4,852	3,387	PL 87-874.
			FMCR	79.2	888.0	885.0	3,387	3,105	
Atwood Lk	OH Tuscarawas	Indian Fk Cr	F	26.1	941.0	928.0	2,460	1,540	PW 1933.
			FCR	7.6	928.0	922.5	1,540	1,250	
Barkley Dam Lk Barkley	Ky Lyon, Livgst	Cumberland R	F	1,213.0	375.0	359.0	93,430	57,920	PL 79-525.
			FP	259.0	359.0	354.0	57,920	45,210	
			N	610.0	354.0	233.0	45,210	0	
Barren River Lk	KY Allen, Barren	Barren R	F	558.8	590.0	552.0	20,150	10,000	PL 75-261.
			FMR	190.3	552.0	525.0	10,000	4,340	

APPENDIX E—LIST OF PROJECTS—Continued

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
Beach City Lk	OH Tuscarawas	Sugar Cr	F	69.9	976.5	948.0	6,150	420	PW 1933.
			FCR	0.0	0.0	0.0	0	420	
Beech Fk Lk	WV Wayne	Beech Fk Cr	F	28.3	614.5	592.0	1,847	725	PL 87-874.
			FCR	5.0	592.0	583.5	725	460	
Belleville L&D	WV Wood	Ohio R	N	0.0	582.0	560.0	0	0	RHA 1909.
	OH Meigs								
Berlin Lk	OH Mahoning, Portage	Mahoning R	F	38.3	1,032.0	1,024.7	5,500	3,590	PL 75-761.
			FMCAR	56.6	1,024.7	1,016.5	3,590	2,200	
Bluestone Lk	WV Summers	New R	F	592.6	1,520.0	1,410.0	9,180	2,040	PL 74-738.
			FCR	7.5	1,410.0	1,406.0	2,040	1,800	PL 75-761.
Bolivar Dam	OH Stark, Tuscarawas	Sandy Cr	F	149.6	962.0	895.0	6,500	0	PW 1933.
Brookville Lk	IN Franklin	E Fork of Whitewater R.	FMR	128.4	748.0	713.0	5,260	2,430	PL 75-761.
Buckhorn Lk	KY Leslie	Middle Fk of Kentucky R.	F	135.8	840.0	782.0	3,610	1,230	PL 75-761.
			FR	21.8	782.0	757.0	1,230	550	
Burnsville Lk	WV Braxton	L Kanawha R	F	51.5	825.0	789.0	1,902	965	PL 75-761.
			FCAR	10.2	789.0	776.0	965	553	
CJ Brown Dam & Res	OH Clark	Buck Cr	F	26.8	1,023.0	1,012.0	2,720	2,120	PL 87-874.
CM Harden Lk	IN Parke	Raccoon Cr	F	83.5	690.0	661.0	3,910	2,060	PL 75-761
			FAR	33.1	661.0	640.0	2,060	1,100	
Caesar Cr Lk	OH Warren	Caesar Cr	F	140.2	883.0	849.0	6,110	2,830	PL 75-761.
			FMAR	88.7	849.0	800.0	2,830	700	
Cagles Mill Lk	IN Putman	Mill Cr	F	201.0	704.0	636.0	4,840	1,400	PL 75-761.
Cannelton L&D	KY Hancock	Ohio R	N	0.0	383.0	358.0	0	0	RHA 1909
	IN Perry								
Carr Fk Lk	KY Knott	Carr Cr	F	25.1	1,055.0	1027.0	1,120	710	PL 87-874.
			FAR	10.8	1,027.0	1009.0	710	530	
Cave Run Lk	KY Rowan	Licking R	F	391.5	765.0	730.0	14,870	8,270	PL 74-738
			FAR	75.3	730.0	720.0	8,270	6,790	
Center Hill Lk	TN Dekalb	Caney FK	F	762.0	685.0	648.0	23,060	18,220	PL 75-761.
			P	492.0	648.0	618.0	18,220	14,590	
Charles Mill Lk	OH Ashland	Black Fk	F	80.6	1,020.0	997.0	6,050	1,350	PW 1933.
			FCR	4.5	997.0	993.0	1,350	827	
Cheatham L&D	TN Cheatham	Cumberland R	P	19.8	385.0	382.0	7,450	5,630	RHA 1946, PL 396.
			N	84.2	382.0	345.0	5,630	0	PL 396.
Clendening Lk	OH Harrison	Brush Fk	F	27.5	910.5	898.0	2,620	1,800	PW 1933.
			FCR	8.0	898.0	893.0	1,800	1,430	
Conemaugh River Lk	PA Indiana, Westmoreland.	Conemaugh R	F	270.0	975.0	880.0	6,820	300	PL 74-738, PL 75-761.
Cordell Hull Dam & Res	TN Smith	Cumberland R	PR	17.8	504.5	499.0	12,200	9,820	RHA 1946.
			NR	0.0	499.0	424.0	9,820	0	
Crooked Cr Lk	PA Armstrong	Crooked Cr	F	89.4	920.0	840.0	1,940	350	PL 74-738, PL 75-761.
Dale Hollow Lk	TN Clay	Obey R	F	353.0	663.0	651.0	30,990	27,700	PL 75-761.
			P	496.0	651.0	631.0	27,700	21,880	
Dashields L&D	PA Allegheny	Ohio R	N	0.0	692.0	682.0	0	0	RHA 1909.
Deer Cr Lk	OH Pickaway	Deer Cr	F	81.5	844.0	810.0	4,046	1,277	PL 75-761.
			FCR	14.6	810.0	796.0	1,277	727	
Delaware Lk	OH Delaware	Olentangy R	F	118.0	947.0	915.0	8,550	1,270	PL 75-761
			FCAR	5.6	915.0	910.0	1,270	950	
Dewey Lk	KY Floyd	Johns Cr	F	76.1	686.0	650.0	3,340	1,100	PL 75-761
			FCR	4.9	650.0	645.0	1,100	880	
Dillon Lk	OH Muskingum	Licking R	F	256.5	790.0	737.0	10,280	1,560	PL 75-761.
			FCR	4.4	737.0	734.0	1,560	1,330	
Dover Dam	OH Tuscarawas	Tuscarawas R	F	203.0	916.0	858.0	10,100	0	PW 1933.
E Br Clarion River Lake	PA Elk	E Br Clarion R	F	19.0	1,685.0	1,670.0	1,370	1,160	PL 78-526.
			FCAR	19.8	1,670.0	1,651.0	1,160	920	
E Fk Res Wm H Harsha Lk	OH Clermont	E Fk Little Miami R	F	202.2	795.0	733.0	4,600	2,160	PL 75-761.
			FMCAR	73.6	733.0	683.0	2,160	820	
East Lynn Lk	WV Wayne	E Fk Twelvepole	F	65.3	701.0	662.0	2,351	1,005	PL 75-761.
			FCR	5.5	662.0	656.0	1,005	823	
Emsworth L&D	PA Allegheny	Ohio R	N	0.0	710.0	692.0	0	0	RHA 1909.
Fishtrap Lk	KY Pike	Levisa Fk	F	126.7	825.0	757.0	2,681	1,131	PL 75-761.
			FCAR	27.2	757.0	725.0	1,131	569	
Gallipolis L&D	WV Mason	Ohio R	N	0.0	538.0	515.0	0	0	RHA 1935.
	OH Gallia								
Grayson Lk	KY Carter	L Sandy R	F	89.6	681.0	645.0	3,633	1,509	PL 86-645.
			FCAR	10.7	645.0	637.0	1,509	1,159	
Green R L&D 1	KY Henderson	Green R	N	0.0	349.1	337.3	0	0	RHA 1888.
Green R L&D 2	KY McLean	Green R	N	0.0	363.4	349.1	0	0	RHA 1888.
Green River Lk	KY Taylor	Green R	F	479.1	713.0	675.0	19,100	8,210	PL 75-761.
			FAR	81.5	675.0	664.0	8,210	6,650	
Greenup L&D 3	KY Greenup	Ohio R	N	0.0	515.0	485.0	0	0	RHA 1909.
	OH Scioto								
Hannibal L&D	WV Wetzel	Ohio R	N	0.0	623.0	602.0	0	0	RHA 1909.
	OH Monroe								

APPENDIX E—LIST OF PROJECTS—Continued

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
Hildebrand L&D	WV Monongalia	Monongahela	N	0.0	835.0	814.0	0	0	RHA 1950.
Huntington Lk	IN Hunt	Wabash R	F	140.6	798.0	749.0	7,900	900	PL 85-500.
			FR	8.4	749.0	737.0	900	500	
J Percy Priest Dam & Res	TN Davidson	Stones R	F	252.0	504.5	490.5	22,720	14,400	PL 75-761.
			FP	15.0	490.5	489.5	14,400	14,000	
			FPR	0.0	489.5	483.0	14,000	11,630	
			PR	0.0	483.0	480.0	11,630	10,570	
JW Flannagan Dam & Res	VA Dickenson	Pound R	F	78.6	1,446.0	1,396.0	2,098	1,143	PL 75-761.
			FMCR	16.5	1,396.0	1,380.0	1,143	310	
Kentucky R L&D 1	KY Carroll	Kentucky R	N	0.0	430.0	421.8	0	0	RHA 1879.
Kentucky R L&D 2	KY Henry Owen	Kentucky R	N	0.0	444.0	430.0	0	0	RHA 1879.
Kentucky R L&D 3	KY Henry Owen	Kentucky R	N	0.0	457.1	444.0	0	0	RHA 1879.
Kentucky R L&D 4	KY Franklin	Kentucky R	N	0.0	470.4	457.1	0	0	RHA 1879.
Laurel River Lk	KY Laurel, Whitley	Laurel R	P	185.0	1,018.5	982.0	6,060	4,200	PL 86-645.
			R	250.6	982.0	760.0	4,200	0	
Leesvillie Lake	OH Carroll	McGuire Cr.	F	17.9	977.5	963.0	1,470	1,000	PW 1933.
			FCR	5.5	963.0	957.0	1,000	829	
London L&D	WV Kanawha	Kanawha R	N	0.0	614.0	590.0	0	0	RHA 1930.
Loyalhanna Lk	PA Westmoreland	Loyalhanna Cr	F	93.3	975.0	910.0	3,280	210	PL 74-738.
			FC	0.0	0.0	0.0	0	0	PL 75-761.
M J Kirwan Dam & Res	OH Portage	W. Br Mahoning R	F	22.0	993.0	985.5	3,240	2,650	PL-74-738
			FCAR	52.9	985.5	951.0	2,650	570	PL 75-761.
Mahoning Cr Lk	PA Armstrong	Mahoning Cr	F	64.7	1,162.0	1,098.0	2,370	280	PL 74-738.
			FRC	5.1	1,098.0	1,075.0	280	170	PL 75-761.
Markland L&D	IN Switzerland	Ohio R	N	0.0	455.0	420.0	0	0	RHA 1909
	KY Gallatin								
Marmet L&D	WV Kanawha R	Kanawha	N	0.0	590.0	566.0	0	0	RHA 1930.
Martins Fk Lk	KY Harlan	Martins Fk of Clover R	F	14.3	1,341.0	1,310.0	578	340	PL 89-298.
			FAR	3.1	1,310.0	1,300.0	340	274	
			R	3.7	1,300.0	1,265.0	274	0	
Maxwell L&D	PA Fayette Washington.	Monongahela R	N	0.0	763.0	743.5	0	0	RHA 1909.
McAlpine L&D	KY Jefferson	Ohio R	N	0.0	420.0	383.0	0	0	RHA 1909.
	IN Clark								
Meldahl L&D	KY Bracken	Ohio R	N	0.0	485.0	455.0	0	0	RHA 1909.
	OH Clermont								
Mississinewa Lk	IN Miami	Mississinewa R	F	293.2	779.0	737.0	12,830	3,180	PL 85-500.
			FR	51.9	737.0	712.0	3,180	1,280	.
Mohawk Dam	OH Coshocton	Walhonding R	F	285.0	890.0	799.2	7,950	0	PW 1933.
Mohicanville Dam	OH Ashland	Lk Fork	F	102.0	963.0	932.0	8,800	0	PW 1933.
Monongahela R L&D 2	PA Allegheny	Monongahela R	N	0.0	718.7	710.0	0	0	RHA 1902.
Monongahela R L&D 3	PA Allegheny	Monongahela R	N	0.0	726.9	718.7	0	0	RHA 1905.
Monongahela R L&R 4	PA Washington Westmoreland.	Monongahela R	N	0.0	743.5	726.9	0	0	RHA 1909.
Monongahela R L&D 7	PA Greene, Fayette	Monongahela R	N	0.0	778.0	763.0	0	0	RHA 1922.
Monongahela R L&D 8	PA Greene, Fayette	Monongahela R	N	0.0	797.0	778.0	0	0	RHA 1922, 1950, 1973.
Monroe Lk	IN Monroe	Salt Cr	F	258.8	556.0	538.0	18,450	10,750	FCA 1958.
			FMA	159.9	538.0	515.0	10,750	3,280	.
Montgomery Island L&D	PA Beaver	Ohio R	N	0.0	682.0	664.5	0	0	RHA 1909.
Morgantown L&D	WV Monongalia Monongahela R.	N	0.0	814.0	797.0	0	0	RHA 1909.	
Mosquito Cr Lk	OH Trumbull	Mosquito Cr	F	21.7	904.0	901.4	8,900	7,850	PL 75-761.
			FMCAR	80.4	901.4	899.9	7,850	7,220	
N Br Kokosing River Lk	OH Knox	North Br of Kokosing R.	F	13.9	1,146.0	1,121.0	1,140	154	PL 87-874.
N Fk Pound Lk	VA Wise	N Fk Pound R	F	8.0	1,644.0	1,611.0	349	154	PL 86-645.
			FMCR	1.3	1,611.0	1,601.0	154	106	.
New Cumberland L&D	WV Hancock	Ohio R	N	0.0	664.5	644.0	0	0	RHA 1909.
	OH Jefferson								
Newburgh L&D	KY Henderson	Ohio R	N	0.0	358.0	342.0	0	0	RHA 1909.
	IN Warrick								
Nolin Lk	KY Edmonson	Nolin R	F	439.2	560.0	515.0	14,530	5,790	PL 75-761.
			FR	106.4	515.0	490.0	5,790	2,890	
Ohio R L&D 52	KY McCracken	Ohio R	N	0.0	302.0	290.0	0	0	RHA 1909, 1910, 1918.
	IL Massac								
Ohio R L&D 53	KY Ballard	Ohio R	N	0.0	290.0	276.6	0	0	RHA 1909, 1910, 1918.
	IL Pulaski								
Old Hickory L&D	TN Davidson Sumner	Cumberland R	P	63.0	445.0	442.0	22,500	19,550	RHA 1946.
			N	357.0	442.0	375.0	19,550	0	
Opekiska L&D	WV Monongahela	Monongahela R	N	0.0	857.0	835.0	0	0	RHA 1950.
Paint Cr Lk	OH Ross, Highland	Paint Cr	F	124.7	845.0	798.0	4,761	1,190	PL 75-761.
			FMCAR	11.4	798.0	787.5	1,190	770	
Paintsville Lk	KY Johnson	Paint Cr	F	32.8	731.0	709.0	1,867	1,139	PL 89-298.
			FCAR	36.3	709.0	650.0	1,139	261	

APPENDIX E—LIST OF PROJECTS—Continued

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
Patoka Lk	IN DuBois	Patoka R	F	121.1	548.0	536.0	11,300	8,880	PL 89-298.
			FMCAR	167.3	536.0	506.0	8,880	2,010	
Piedmont Lk	OH Harrison	Stillwater Cr	F	32.2	924.6	913.0	3,170	2,310	PW 1933.
			FCR	8.6	913.0	909.0	2,310	1,987	
Pike Island L&D	WV Ohio	Ohio R	N	0.0	644.0	623.0	0	0	RHA 1909.
	OH Belmont								
Pleasant Hill Lk	OH Ashland	Clear Fk	F	74.2	1,065.0	1,020.0	2,600	850	PW 1933.
			FCR	5.5	1,020.0	1,012.5	850	627	
R D Bailey Lk	WV Mingo, Wyoming	Guyandot R	F	169.5	1,155.0	1,035.0	2,850	630	PL 87-874.
			FCAR	12.2	1,035.0	1,012.0	630	440	
Racine L&D	WV Mason	Ohio R	N	0.0	560.0	538.0	0	0	RHA 1909.
	OH Meigs								
Rough River Lk	Grayson, Breckinridge	Rough R	F	214.4	524.0	495.0	10,260	5,100	PL 75-761.
	Ridge		FMR	90.2	495.0	470.0	5,100	2,180	
Salamonie Lk	IN Wabash	Salamonie R	F	202.9	793.0	755.0	9,340	2,860	PL 85-500.
			FR	47.6	755.0	730.0	2,860	976	
Senecaville Lk	OH Guernsey	Seneca Fk	F	45.1	842.5	832.2	5,170	3,550	PW 1933.
			FCR	12.8	832.2	828.2	3,550	2,912	
Shenango River Lk	PA Mercer	Shenango R	F	151.0	919.0	896.0	11,090	3,560	PL 75-761.
			FCAR	29.9	896.0	885.0	3,560	1,910	
Smithland L&D	KY Livingston	Ohio R	N	0.0	324.0	302.0	0	0	RHA 1909.
	IL Pope								
Summersville Lk	WV Nicholas	Gauley R	F	221.9	1,710.0	1,1652.0	4,913	2,790	PL 75-761.
			FRCA	161.8	1,652.0	1,535.0	2,790	514	
Sutton Lk	WV Braxton	Elk R	FCAR	60.0	925.0	850.0	1,520	270	PL 75-761.
Tappan Lk	OH Harrison	L Stillwater Cr	F	26.5	909.0	899.3	3,100	2,350	PW 1933.
			FCR	11.4	899.3	894.0	2,350	1,960	
Tionesta Lk	PA Forest	Tionesta Cr	F	125.6	1,170.0	1,085.0	2,770	480	PL 74-738, PL 75-761.
Tom Jenkins Dam, Burr Oak, Lk.	OH Athens	E Br Sandy Cr	F	17.6	740.0	721.0	1,192	664	FCA 1944.
			FRM	5.8	721.0	710.0	664	394	PL 78-534.
Tygart Lake	WV Taylor	Tygart R	F	178.1	1,167.0	1,094.0	3,430	1,740	PWA 1934.
			FMACR	99.9	1,094.0	1,010.0	1,740	620	
Union City Res	PA Erie	French Cr	F	47.6	1,278.0	1,210.0	2,290	0	PL 87-874.
Uniontown L&D	KY Union	Ohio R	N	0.0	342.0	324.0	0	0	RHA 1909.
	IN Posey								
W FK of Mill Cr Winton Woods Lk.	OH Hamilton	W Fk Mill Cr	F	9.8	702.0	675.0	557	183	PL 79-526.
Willow Island L&D	WV Pleasants	Ohio R	N	0.0	602.0	582.0	0	0	RHA 1909.
	OH Washington								
Wills Cr Lk	OH Coshockton Wills Cr, Muskingum.		F	190.0	779.0	742.0	11,450	900	PW 1933.
			CR	0.0	0.0	0.0	0	0	
Winfield L&D	WV Putnam	Kanawha R	N	0.0	566.0	538.0	0	0	RHA 1935.
Wolf Cr Dam, Lk Cumberland.	KY Russell	Cumberland R	P	2,142.0	723.0	673.0	50,250	35,820	
			F	2,094.0	760.0	723.0	63,530	50,250	PL 75-761.
Woodcock Cr Lk	PA Crawford	Woodcock Cr	F	15.0	1,209.0	1,181.0	775	325	FCA 1962.
			FCAR	5.0	1,181.0	1,162.5	325	100	
Youghiogheny R Lk	PA Fayette	Youghiogheny R	F	99.5	1,470.0	1,439.0	3,570	2,840	FCA 1938.
			FCAR	149.3	1,439.0	1,419.0	2,840	2,300	
South Atlantic Division									
Aberdeen L&D and Res	MS Monroe	Tombigbee R	N	3.9	190.5	189.5	4,359	3,883	PL 79-525.
Aliceville Lock Dam & Res	AL Pickens	Tombigbee R	N	7.6	136.5	135.5	8,655	7,945	PL 79-525.
Allatoona Dam & Res	GA Bartow	Etowah R	F	302.6	860.0	840.0	19,201	11,862	PL 77-228.
			PMAR	284.6	840.0	800.0	11,862	3,251	
B Everett Jordan Dam & Lk	NC Chatham	Haw R	F	538.4	240.0	216.0	31,811	13,942	PL 88-253.
			FMCAR	140.4	216.0	202.0	13,942	6,658	
Bay Springs Lock Dam & Res.	MS Tishomingo	Tombigbee R	N	37.0	414.0	408.0	6,700	5,740	PL 79-525.
Buford Dam Lk, Sidney Lanier.	GA Forsyth, Gwinnett	Chattahoochee R	F	598.8	1,085.0	1,071.0	47,182	38,542	PL 79-14.
			PNMR	1,087.6	1,071.0	1,035.0	38,542	22,442	
Carters Dam & Res	GA Murray	Coosawattee R	F	89.2	1,099.0	1,074.0	3,880	3,275	PL 79-14.
			PRA	41.4	1,074.0	1,022.0	3,275	2,196	
Claiborne Lock Dam & Res	AL Monroe	Alabama R	N	16.6	35.0	32.0	5,930	5,210	PL 79-14.
Clarks Hill Dam & Lk	GA Columbia	Savannah R	F	390.0	335.0	330.0	78,500	71,100	PL 78-534.
	SC McCormick		FP	1,045.0	330.0	312.0	71,100	45,000	
Coffeeville Lock Dam & Res.	AL Clark, Choctaw	Tombigbee R	N	19.9	32.5	30.0	8,500	7,500	PL 60-317.
Columbus Lock Dam & Res	MS Lowndes	Tombigbee R	N	8.5	163.5	162.5	9,400	8,500	PL 79-525.
Demopolis Lock Dam & Res.	AL Sumter, Marengo	Tombigbee R	N	0.0	73.0	73.0	10,000	10,000	PL 60-317.
Falls Dam & Lk	NC Wake	Neuse R	F	220.9	264.0	250.1	20,810	11,310	PL 89-298.

APPENDIX E—LIST OF PROJECTS—Continued

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
			FMCAR	89.7	250.1	236.5	11,310	2,600	
G W Andrews L&D and Res.	AL Houston	Chattahoochee R.	N	8.2	102.0	96.0	1,540	1,190	PL 79-14.
	GA Early								
Gainesville L&D and Res.	AL Sumter, Greene	Tombigbee R.	N	5.8	109.5	108.5	6,920	5,900	PL 79-525.
Hartwell Dam & Lk	GA Hart	Savannah R.	F	293.0	665.0	660.0	61,400	55,950	PL 81-516.
	SC Anderson		FP	1,416.0	660.0	625.0	55,950	27,650	
Holt Lock Dam & Res	AL Tuscaloosa	Black-Warrior R.	NP	3.3	187.0	186.0	3,296	3,252	PL 60-317.
Inglis Dam Lk Rousseau	FL Levy, Marion, Citrus	Cross FL Barge Canal	N	13.0	27.5	24.0	4,030	2,040	PL 77-675.
Jim Woodruf L&D	FL Gadsden, Jackson	Apalachicola R.	NP	20.0	77.5	76.5	38,850	36,000	PL 79-14.
John H Kerr Dam & Res	VA Mecklenburg	Roanoke R.	F	1,281.4	320.0	300.0	83,200	48,900	PL 78-534.
			FP	1,027.0	300.0	268.0	48,900	19,700	
John Hollis Bankhead L&D and Res.	AL Tuscaloosa	Black-Warrior R.	NP	27.1	255.0	252.0	9,245	8,730	PL 60-168.
Lk Okeechobee	FL Okeechobee, Glades, Hendry, Palm Beach, Martin.	Central and Southern FL.	FNIMC	2,859.0	17.5	10.5	454,900	326,000	PL 71-520, PL 75-392, PL 79-14, PL 80-858, PL 83-780, PL 90.
Lock A	MS Monroe	Tombigbee R.	N	0.9	220.5	219.5	980	850	PL 79-525.
Lock B	MS Monroe	Tombigbee R.	N	2.7	245.5	244.5	2,841	2,615	PL 79-525.
Lock C	MS Itawamba	Tombigbee R.	N	1.6	270.5	269.5	1,699	1,586	PL 79-525.
Lock D	MS Itawamba	Tombigbee R.	N	2.0	300.5	299.5	2,021	1,959	PL 79-525.
Lock E	MS Itawamba, Prentiss	Tombigbee R.	N	0.9	330.5	329.5	889	821	PL 79-525.
Millers Ferry L&D	AL Wilcox	Alabama R.	NP	16.7	80.0	79.0	17,201	16,160	PL 79-14.
Okatibbee Dam & Res	MS Lauderdale	Okatibbee Cr.	F	46.5	352.0	343.0	6,580	3,800	PL 87-874.
		Chickasawbay R.	RMA	34.3	343.0	328.0	3,800	1,275	
Philpott Dam & Lk	VA Henry	Smith R.	F	34.2	985.0	974.0	3,370	2,880	PL 78-534.
			FP	11.2	974.0	920.0	2,880	1,350	
R B Russell Dam and Lk	GA Elbert	Savannah R.	F	140.0	480.0	475.0	29,340	26,653	PL 89-789.
	SC Abbeville		FP	126.8	475.0	470.0	26,653	24,117	
Robert F Henry Lock Dam & Res.	AL Autauga, Lowndes	Alabama R.	NP	44.6	125.0	124.0	13,300	10,470	PL 79-14.
Rodman Dam & Lk Ocklawaha.	FL Putman & Marion	Cross FL Barge Canal	N	48.0	23.2	20.0	17,350	12,950	PL 77-675.
S-10 & Water Cons Area 1	FL Palm Beach	Central and Southern FL.	F	181.9	18.3	17.0	141,250	141,250	PL 80-858.
			FIMC	273.2	17.0	14.0	141,250	26,00	
S-11 & Water Cons Area 2A.	FL Palm Beach Broward.	Central and Southern FL.	F	236.3	16.6	14.5	110,500	110,500	PL 80-858.
			FIMC	165.0	14.5	13.0	110,500	107,500	PL 83-780.
S-12 & Water Cons Area 3A.	FL Broward & Dade	Central and Southern FL.	F	1,661.0	14.5	10.5	487,200	385,000	PL 80-858.
			FIMC	465.0	10.5	9.5	385,000	316,000	PL 83-780.
Selden Lock and Res.	AL Hale, Greene	Black-Warrior R.	N	9.1	95.5	94.0	8,200	6,900	PL 60-317.
W Kerr Scott Dam & Res	NC Wilkes	Yadkin R.	F	112.0	1,075.0	1,030.0	4,000	1,475	PL 79-526.
			FM	33.0	1,030.0	1,000.0	1,475	675	
Walter F George L&D	GA Clay	Chattahoochee R.	NP	244.0	190.0	184.0	45,181	36,375	PL 81-516.
	AL Henry								
West Point Dam & Res	GA Troup	Chattahoochee R.	NPMAR	306.1	635.0	620.0	25,864	15,512	PL 87-874.
		South Pacific Division							
Alamo Dam & Lk	AZ Mohave, Yuma	Bill Williams R.	F	1,046.2	1,235.0	1,174.0	13,307	7,045	PL 78-534.
Bear Dam	CA Mariposa	Bear Cr.	F	7.7	413.5	344.0	265	0	PL 78-534.
Black Butte Lk	CA Tehama	Stony Cr.	FI	137.1	473.5	414.6	4,453	577	PL 78-534.
Brea Dam & Res	CA Orange	Brea Cr.	F	4.0	279.0	208.0	163	0	FCA 1936.
Buchanan Dam H.V. Eastman Lk.	CA Madera	Chowchilla R.	F	45.0	587.0	559.0	1,785	1,482	PL 78-874.
			FI	140.0	587.0	466.0	1,785	484	
Burns Dam	CA Merced	Burns Cr.	F	6.8	300.0	266.0	662	0	PL 78-534.
Carbon Canyon Dam & Res.	CA Orange	Carbon Cr.	F	6.1	475.0	403.0	225	0	PL 74-738.
Coyote Valley Dam Lk Mendocino.	CA Mendocino	East Fork, Russian R.	F	50.1	764.8	737.5	1,922	1,740	PL 75-761.
			IM	72.3	737.5	637.0	1,740	20	
Dry Cr (Warm Springs) Lk & Channel.	CA Sonoma	Dry Cr.	F	130.0	495.0	451.1	3,600	2,600	PL 87-874.
			MR	225.0	451.1	220.0	2,600	58	
Farmington Dam	CA San Joaquin, Stanislaus.	Littlejohn Cr.	F	52.0	156.5	120.0	4,107	0	PL 78-534.
Fullerton Dam & Res.	CA Orange	Fullerton Cr.	F	0.8	261.0	290.0	62	0	FCA 1936.
Hansen Dam Res	CA Los Angeles	Tujunga Wash	F	25.4	1,060.0	990.0	781	0	FCA 1936.
Hidden Dam Hensley Lk	CA Madera	Fresno R.	F	65.0	540.0	485.8	1,567	811	PL 87-874.
			FI	85.0	540.0	448.0	1,567	280	
Isabella Lk	CA Kern	Kern R.	FI	568.1	2,605.5	2,470.0	11,454	26	PL 785-34.
Lopez Dam Res	CA Los Angeles	Pocoima Wash	F	0.4	1,272.9	1,253.7	40	0	FCA 1936.
Mariposa Dam	CA Mariposa	Mariposa Cr.	F	15.0	439.5	370.0	512	0	PL 78-534.
Martis Cr Lk	CA Nevada	Martis Cr.	F	19.4	5,838.0	5,780.0	768	72	PL 87-874.

APPENDIX E—LIST OF PROJECTS—Continued

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
Mathews Canyon Dam & Res.	NV Lincoln	Mathews Canyon	F	6.3	5,461.0	5,420.0	300	0	PL 81-516.
Mojave River Dam & Res	CA San Bernardino	Mojave R	F	89.7	3,134.0	2,988.0	1,978	0	PL 86-645.
New Hogan Lk	CA Calaveras	Calaveras R	F	165.0	713.0	666.2	4,333	2,818	PL 78-534.
			FI	302.2	713.0	586.0	4,333	702	
Owens Dam	CA Mariposa	Owens Cr	F	3.6	407.5	347.0	174	0	PL 78-534.
Painted Roc Dam & Res	AZ Maricopa	Gila R	F	2,491.5	661.0	524.0	53,200	0	PL 81-516.
Pine Canyon Dam & Res	NV Lincoln	Pine Canyon	F	7.8	5,675.0	5,604.0	254	0	PL 81-516.
Pine Flat Land Kings R	CA Fresno	King R	F	1,000.0	951.5	565.5	5,956	0	PL 78-534.
			FI	1,000.0	951.5	565.6	5,956	0	
Prado Dam & Res	CA Riverside	Santa Ana R	F	196.1	543.0	460.0	6,630	0	FCA 1936.
San Antonio Dam & Res	CA Los Angeles	San Antonio Cr	F	7.7	2,238.0	2,125.0	145	0	FCA 1936.
Santa Fe Dam & Res	CA Los Angeles	San Gabriel R	F	32.1	496.0	421.0	1,070	0	FCA 1936, 1941.
Sepolveda Dam & Res	CA Los Angeles	Los Angeles R	F	17.4	710.0	668.0	1,335	0	FCA 1936.
Success Lk	CA Tulare	Tule R	FI	75.0	652.5	588.9	2,477	409	PL 78-534.
Terminus Dam Lk Kaweah	CA Tulare	Kaweah R	FI	136.1	694.0	570.0	1,913	276	PL 78-534.
Warm Springs Dam Sonoma Lk.	CA Sonoma	Dry Cr	F	136.0	495.0	451.0	3,600	2,600	PL 87-874.
Whitlow Ranch Dam & Res	AZ Pinal	Queen Cr	F	35.6	2,166.0	2,056.0	828	0	PL 79-526.
Whittier Marrows Dam & Res.	CA Los Angeles	San Gabriel Rio Hondo R.	F	34.9	228.5	184.0	2,411	0	FCA 1936.
Southwestern Division									
Abiquiu Dam	NM Rio Arriba	Rio Chama	F	572.2	6,283.5	6,220.0	7,469	4,120	PL 80-858.
			FM	191.3	6,220.0	6,060.0	4,120	0	
Addicks Res	TX Harris	Buffalo Bayou	F	200.8	112.0	71.1	16,423	0	HD250-83-2.
Aquilla Lk	TX Hill	Aquilla Cr	F	161.4	564.5	537.5	8,980	3,280	PL 90-483.
			MR	93.6	537.5	478.6	3,280	26	
B A Steinhagen Lk	TX Taylor, Jasper	Neches R	F	24.5	83.0	81.0	13,700	10,950	SD98-76-1.
Bardwell Lk	TX Ellis	Waxahachie Cr	F	79.6	439.0	421.0	6,040	3,570	PL 86-399.
			M	42.8	421.0	372.6	3,570	0	
Barker Res	TX Harris Ft Bend	Buffalo Bayou	F	209.0	106.0	73.2	16,734	0	HD250-83-2, RHA 1938.
Beaver Lk	AR Carrol	White R	F	299.6	1,130.0	1,120.0	31,700	28,220	PL 83-780.
			FPM	925.1	1,120.0	1,077.0	28,220	15,540	PL 85-500.
Belton Lk	TX Bell	Leon R	F	640.0	631.0	594.0	23,600	12,400	PL 79-526.
			MI	372.7	594.0	470.0	12,400	42	HD88-81-1.
Benbrook Lk	TX Tarrant, Parker	Clear Fk Trinity R	F	170.4	724.0	694.0	7,630	3,770	HD103-771.
			NM	72.5	694.0	656.0	3,770	730	
Big Hill LK	KN Labette	Big Hill Cr	F	13.1	867.5	858.0	1,520	1,240	PL 87-874.
			FMR	27.2	858.0	814.0	1,240	70	HD572-87-2.
Birch Lk	OK Osage	Birch Cr	F	39.0	774.0	750.5	2,340	1,140	PL 87-874.
			FMCAR	15.8	750.5	730.0	1,140	384	HD563-87-2.
Blue Mountain Lk	AR Yell	Petit Jean R	F	233.3	419.0	384.0	11,000	2,910	PA 75-761.
Broken Bow Lk	OK McCurtain	Mountain Fk R	F	450.2	627.5	599.5	18,000	14,200	PL 85-500.
			FRPMAC	469.8	599.5	559.5	14,200	9,200	
Bull Shoals Lk	AR Baxter, Marion	White R	F	2,360.0	695.0	654.0	71,240	45,440	PL 77-228.
			PF	1,003.0	654.0	628.5	45,440	33,800	
Canton Lk	OK Blain	N Canadian R	F	265.8	1,638.0	1,615.4	15,710	7,910	PL 75-761.
			FMI	97.2	1,615.4	1,596.5	7,910	2,710	HD56-/75-3.
Canyon Lk	TX Comal	Guadalupe R	F	346.4	934.0	909.0	12,890	8,240	PL 79-14.
			M	366.4	909.0	75.0	8,240	0	
Clearwater Lk	MO Reynolds, Wayne	Black R	F	391.8	567.0	494.0	10,400	1,630	PL 79-761.
			F	0.0	0.0	0.0	0	0	
Cochiti Lk	NM Sandoval, Sante Fe, Los Alamos.	Rio Grande	F	545.0	5,460.5	5,356.6	9,361	1,200	PL 86-645.
			FRC	43.0	5,356.6	5,330.0	1,200	0	
Conchas Lk	NM San Miguel	Candian R	F	198.8	4,218.0	4,201.0	13,664	9,692	HD 308-74.
			FI	259.6	4,201.0	4,155.0	9,692	3,000	
Copan Lk	OK Washington	L Caney R	F	184.3	732.0	710.0	13,380	4,850	PL 87-874.
	KS Chautauqua		FMCA	42.8	710.0	687.5	4,850	110	HD563-87-2.
Council Grove Lk	KS Morris	Neosho R	F	63.8	1,289.0	1,274.0	5,400	3,230	PL 81-516.
			FMAR	48.5	1,274.0	1,240.0	3,230	42	
DeQueen Lk	AR Sevier	Rolling Fork R	F	101.3	473.5	437.0	4,050	1,680	PL 85-500.
			FMCR	25.5	437.0	415.0	1,680	710	
Dierks Lk	AR Sevier, Howard	Saline R	F	67.1	557.5	526.0	2,970	1,360	PL 85-500.
			FMCR	15.1	526.0	512.0	1,360	810	
Eldorado Lk	KS Butler	Walnut R	F	79.2	1,347.5	1,339.0	10,740	8,000	PL 89-298.
			FMAR	154.0	1,339.0	1,296.0	8,000	420	HD232-89-1.
Elk City Lk	KS Montgomery	Elk R	F	239.5	825.0	796.0	13,150	4,450	HD440-76-1.
			FMA	44.8	796.0	764.0	4,450	64	
Eufaula Lk	OK McIntosh, Pittsburg, Haskell.	Candian R	F	1,510.9	597.0	585.0	147,960	105,480	PL 79-525.
			FNPM	1,463.0	585.0	565.0	105,480	46,120	
Fall River Lk	KS Greenwood	Fall R	F	234.5	987.5	948.5	10,400	2,350	HD440-76-1.
			FA	15.0	948.5	940.0	2,350	1,170	

APPENDIX E—LIST OF PROJECTS—Continued

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
Fort Gibson Lk	OK Wagoner	Neosho (Grand) R	F	919.2	582.0	554.0	51,000	19,900	FEC 1941.
			FP	53.9	554.0	551.0	19,100	16,950	RHA 1946.
Fort Supply Lk	OK Woodward	Wolf Cr	F	86.8	2,028.0	2,004.0	5,690	1,820	PL 74-738.
			FM	13.9	2,004.0	1,988.0	1,820	0	
Galisteo Dam	NM Santa Fe	Galisteo Cr	F	79.4	5,608.0	5,496.0	2,060	0	PL 86-645.
Gillham Lk	AR Howard, Polk	Cossatot R	F	188.7	569.0	502.0	4,680	1,370	PL 85-500.
			FMC	29.3	502.0	464.5	1,370	310	
Granger Lk	TX Williamson	San Gabriel R	F	162.2	528.0	504.0	11,040	4,400	PL 87-874.
			M	37.9	504.0	440.0	4,400	0	
Grapevine Lk	TX Denton, Tarrant	Denton Cr	F	243.1	560.0	535.0	12,710	7,280	HD103-77-1.
			M	154.3	535.0	451.0	7,380	41	
Great Salt Plains Lk	OK Alfalfa	Salt Fk	F	240.0	1,138.5	1,125.0	27,730	8,693	PL 74-738.
		Arkansas R	FC	31.4	1,125.0	1,115.0	8,690	0	
Greers Ferry Lk	AR Cleburne	Little Red R	F	934.0	487.0	461.0	40,480	31,460	PL 75-761.
			PF	716.5	461.0	435.0	31,460	23,740	
Heyburn Lk	OK Creek	Polecat Cr	F	48.4	784.0	761.5	3,700	917	PL 79-526.
			FM	3.8	761.5	55.5	917	394	
Hords Cr Lk	TX Coleman	Hords Cr	F	16.7	1,920.0	1,900.0	1,260	510	PL 77-228.
			M	5.8	1,900.0	1,848.0	510	0	
Hugo Lk	OK Choctaw	Kiamichi R	F	809.1	437.5	404.5	34,490	13,250	PL 79-526.
			FMCAR	127.2	404.5	390.0	13,250	4,500	
Hulah Lk	OK Osage	Caney R	F	257.9	765.0	733.0	13,000	3,570	PL 74-738.
	KS Chautaugua		FMA	31.1	733.0	710.0	3,570	0	PL 84-843.
Jemez Canyon Dam	NM Sandoval	Jemez R	F	73.0	5,232.0	5,196.1	2,877	1,370	PL 80-858 PL 81-516.
Joe Pool Lk	TX Dalla, Ellis, Tarrant	Mountain Cr	F	1,238.0	536.0	522.0	10,940	7,470	PL 89-298.
			M	176.9	522.0	456.0	7,470	10	
John Martin Res	CO Bent	Arkansas R	F	270.3	3,870.0	3,851.0	17,630	11,655	PL 74-738.
			FRC	350.9	3,851.0	0.0	11,655	0	
John Redmond Dam & Res	KS Coffee	Neosho R	F	559.0	1,068.0	1,039.0	31,700	9,300	PL 81-516.
			FMAR	70.8	1,039.0	1,020.0	9,300	108	
Kaw Lk	OK Kay, Osage	Arkansas R	F	919.4	1,044.5	1,010.0	38,020	17,040	PL 87-874.
	KS Cowley		FMARC	343.5	1,010.0	78.0	17,040	5,590	
Keystone Lk	OK Tulsa	Arkansas R	F	1,180.0	754.0	723.0	54,300	23,600	PL 81-516.
			FNPMC	296.7	723.0	706.0	23,600	13,300	
L&D 01, Norrie	AR Arkansas	Arkansas Post Canal	N	0.0	142.5	141.5	140	0	HD 758-79, RHA 1946.
L&D 02, Wilbur D. Mills Dam.	AR Desha, Arkansas	Arkansas R	N	0.0	162.3	160.5	10,600	0	HD 758-79, RHA 1946.
L&D 03	AR Jefferson, Lincoln	Arkansas R	N	0.0	182.3	180.0	3,670	0	HD 758-79, RHA 1946.
L&D 04	AR Jefferson	Arkansas R	N	0.0	196.3	194.0	5,680	0	HD 758-79, RHA 1946.
L&D 05	AR Jefferson	Arkansas R	N	0.0	213.3	211.0	6,680	0	HD 758-79, RHA 1946.
L&D 06, David D. Terry	AR Pulaski	Arkansas R	N	0.0	231.3	229.0	4	0	HD 758-79.
L&D 07, Murray	AR Pulaski	Arkansas R	N	0.0	249.7	247.0	9,700	0	RHA 1946.
L&D 08, Toad Suck Ferry	AR Faulkner, Perry	Arkansas R	N	0.0	265.3	263.0	4,130	0	RHA 1946.
L&D 09, Arthur V. Ormond L&D, W. Rockefeller Lk.	AR Conway	Arkansas R	N	0.0	287.0	284.0	5,660	0	HD 758-79.
L&D 10, Lk Dardanelle	AR Pope Yell	Arkansas R	NP	65.3	338.2	336.0	34,300	31,100	HD 758-79, RHA 1946.
L&D 11, Ozark-Jetta Taylor	AR Franklin	Arkansas	NPR	19.4	372.5	370.0	10,600	8,800	RHA 1946, HD 758-79.
L&D 13, James W. Trimble	AR Sebastian, Crawford.	Arkansas R	N	6.6	392.0	389.0	6,820	6,240	RHA 1946.
L&D 14, W. D. Mayo	OK Sequoyah, Leflore	Arkansas R	N	0.0	0.0	0.0	0	0	PL 79-525.
L&D 15, Robert S. Kerr Res	OK Leflore, Sequoyah	Arkansas R	NP	84.7	460.0	458.0	43,800	40,760	PL 79-525.
L&D 16, Webbers Falls Res	OK Muskogee	Arkansas R	NP	32.4	490.0	487.0	10,900	9,300	PL 79-525.
L&D 17, Chouteau	OK Wagoner	Verdigris R	N	0.0	511.0	0.0	2,270	0	PL 79-525, HD 758-79-2.
L&D 18, Newt Graham	OK Wagoner	Verdigris R	N	0.0	532.0	0.0	1,490	0	PL 97-525.
Lake O' The Pines	TX Marion	Cypress Cr	F	579.5	249.5	228.5	38,200	18,700	PL 79-526.
			M	250.0	228.5	201.0	18,700	1,100	
Lavon Lk	TX Collin	East Fork, Trinity R	F	275.6	503.5	492.0	29,450	21,400	HD 533-78-2.
			M	380.0	492.0	433.0	21,400	2,870	
Lewisville Lk Garza-Little Elm Dam.	TX Denton	Elm Fork Trinity R	F	525.2	532.0	515.0	39,080	23,280	HD 403-77-1.
			M	436.0	515.0	433.0	23,280	12	
Marion Lk	KS Marion	Cottonwood R	F	60.2	1,358.5	1,350.5	9,050	6,200	PL 81-516.
			FMAR	83.3	1,350.5	1,320.0	6,200	170	
Millwood Lk	AR Little R Hempstead	Little R	F	1,650.0	287.0	259.2	95,200	29,200	PL 79-526.
			FMC	153.3	259.2	252.0	29,200	13,100	HD 785-79.
Navarro Mills Lk	TX Navarro Hill	Richland Cr	F	143.2	443.0	424.5	11,700	5,070	HD 498-83-2.
			M	53.2	424.5	375.3	5,070	0	
Nimrod Lk	AR Perry	Fourche La	F	307.0	373.0	342.0	18,300	3,550	FCA 1938.
		Fave R	F	0.0	0.0	0.0	0	0	

APPENDIX E—LIST OF PROJECTS—Continued

Project name [1]	State/county	Stream [1]	Project purpose [2]	Storage 1,000 AF	Elev limits feet M.S.L.		Area in acres		Auth legis [3]
					Upper	Lower	Upper	Lower	
Norfork Lk	AR Baxter	North Fork R	F	731.8	580.0	552.0	30,700	21,990	PL 75-761.
	MO Ozark		FP	707.0	552.0	510.0	21,990	12,320	
North Fork Lk	TX Williamson	N.F. San Gabriel R	F	87.6	834.0	791.0	3,220	1,310	PL 87-874.
			MC	29.2	791.0	699.0	1,310	0	HD 591-82-2.
O. C. Fisher Lk	TX Tom Green	N. Concho R	F	277.2	1,938.5	1,908.0	12,700	5,440	PL 77-228.
			M	80.4	1,908.0	1,836.0	5,440	3	
Oologah Lk	OK Rogers	Verdigris R	F	965.6	661.0	638.0	56,800	29,460	PL 75-761.
			FMN	544.1	638.0	592.0	29,460	1,120	
Optima Lk	OK Texas	N. Candian R	F	100.5	2,779.0	2,763.5	7,640	5,340	PL 74-738.
			FMRC	117.7	2,763.5	2,726.0	5,340	1,335	
Pat Mayse Lk	TX Lamar	Sanders Cr	F	64.6	460.5	451.0	7,680	5,993	PL 87-874.
			FMCR	119.9	451.0	415.0	5,993	996	HD 88-71.
Pine Cr	OK McCurtain	Little R	F	388.1	480.0	443.5	17,230	4,980	PL 85-500.
			FMAC	70.6	443.5	414.0	4,980	700	HD 170-85-1.
Proctor Lk	TX Comanche	Leon R	F	310.1	1,197.0	1,162.0	14,010	4,610	PL 83-780, HD 535-81-2.
Sam Rayburn Res	TX Jasper, San Augustine, Angelina.	Angelina R	F	1,099.4	173.0	164.4	142,700	114,500	HD 981-76-1.
			PMC	1,446.2	164.4	149.0	114,500	74,040	
Santa Rosa	NM Guadalupe	Pecos R	F	340.0	4,746.2	4,776.5	10,740	3,823	PL 83-780.
			FI	160.0	4,776.5	4,746.2	7,115	3,823	
Sardis	OK Pushmatah	Jackfork Cr	F	122.6	607.0	599.0	16,960	13,610	HD 602-79-2.
			FMR	274.2	599.0	542.0	13,610	40	
Somerville Lk	TX Washington, Lee, Burleson.	Yegua Cr	F	337.7	258.0	238.0	24,400	11,460	PL 83-780.
			M	143.9	238.0	200.0	11,460	0	
Stiatook	OK Osage	Hominy Cr	F	178.0	729.0	714.0	13,690	10,190	HD 563-87.
			FMARC	311.6	714.0	657.0	10,190	1,430	
Stillhouse H. Lk	TX Bell	Lampasas R	F	390.6	666.0	622.0	11,830	6,430	PL 83-780.
			M	204.9	622.0	498.0	6,430	0	
Table Rock Lk	MO Taney	White R	F	760.0	931.0	915.0	52,250	43,070	PL 77-228.
			FP	1,181.50	915.0	881.0	43,070	27,300	FCA 1938.
Tenkiller Ferry Lk	OK Cherokee, Sequoyah.	Illinois R	F	576.7	667.0	632.0	20,800	12,900	RHA 1946.
			FP	371.0	632.0	594.5	12,900	7,370	
Texoma Lk, Denison Dam	TX Marshall	Red R	F	2,669.0	640.0	617.0	144,000	88,000	PL 75-761.
	OK Bryan, Cook, Grayson.		FPM	1,612.0	617.0	590.9	88,000	41,000	
Toronto Lk	KS Woodson	Verdigris R	F	179.8	931.0	901.5	11,740	2,660	HD 440-76-1.
			FMA	10.7	901.5	896.7	2,660	1,720	
Trinidad Lk	CO Las Animas	Purgatorie R	F	58.0	6,260.0	6,230.0	2,107	1,453	PL 85-500.
			FI	20.0	6,230.0	0.0	1,453	0	
Two Rivers Dam	NM Chaves	Rio Hondo R	F	150.0	4,032.0	3,945.0	4,806	0	PL 83-780.
Waco Lk	TX Mclennan	Bosque R	F	3.3	500.0	455.0	19,440	7,270	PL 83-780.
			M	100.8	455.0	370.0	7,240	0	HD 535-81-2.
Waurika Lk	OK Jefferson	Beaver Cr	F	140.4	962.5	951.4	15,000	10,100	PL 88-253.
			FMCAR	199.7	951.4	910.0	10,100	830	
Whitney Lk	TX Hill, Bosquel	Brazos R	F	1,372.0	571.0	533.0	49,820	23,560	PL 77-228.
			PM	381.9	533.0	425.0	23,560	475	HD 390-76-1.
Wister Lk	OK Leflore	Pouteau R	F	387.0	502.5	474.6	23,070	5,000	PL 75-761.
Wright Patman Lk	TX Bowie, Cass	Sulphur R	F	2,363.7	259.5	220.0	119,700	20,300	PL 79-526.
			FM	142.7	220.0	180.0	20,300	0	

[1] Res—Reservoir; Lk—Lake; Div—Diversion: R—River; Cr—Creek; Fk—Fork; L&D—Lock & Dam; GIWW—Gulf Intercoastal Waterway; FG—Floodgate; CS—Control Structure: DS—Drainage Structure; PS—Pump Station.

[2] F—Flood Control; N—Navigation; P—Hydropower; I—Irrigation; M—Municipal and/or Industrial Water/Supply; C—Fish and Wildlife Conservation; R—Recreation; A—Low Flow Augmentation or Pollution Abatement; Q—Quality or Silt Control.

[3] PL—Public Law; HD—House Document; RHA—River & Harbor Act; PW—Public Works: FCA—Flood Control Act.

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federal register

Thursday
April 30, 1987

Part III

Environmental Protection Agency

40 CFR Part 763

Asbestos-Containing Materials in Schools; Proposed Rule and Model Accreditation Plan; Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPTS-62048C; FRL-3190-2A]

Asbestos-Containing Materials in Schools

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a rule under section 203 of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2643, to require all Local Education Agencies (LEAs) to identify asbestos-containing materials (ACM) in their school buildings and take appropriate actions to control release of asbestos fibers. The LEAs would also be required to describe their activities in management plans, which must be made available to all concerned persons and submitted to state governors. The proposed rule would require LEAs to use specially-trained persons to conduct inspections for asbestos, develop the management plans, and design or conduct major actions to control asbestos. Exclusions would be provided for LEAs which have previously conducted inspections and for LEAs subject to any state requirement at least as stringent as the comparable requirement in this proposed rule.

DATE: Comments regarding this proposed rule must be submitted by June 29, 1987.

ADDRESSES: Comments should be submitted to: Document Control Officer (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. NE-G004, 401 M Street SW., Washington, DC 20460.

Comments should include the docket control number [OPTS-62048C] and will be available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in Room NE-G004 at the address given above.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M Street SW., Washington, DC 20460, Telephone: (202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

A. Description of the Enabling Legislation

On October 22, 1986, President Reagan signed into law the Asbestos Hazard Emergency Response Act (AHERA) which enacted among other provisions, Title II of the Toxic Substances Control Act (TSCA) 15 U.S.C. sections 2641 through 2654. Section 203 of Title II, 15 U.S.C. 2643, requires EPA to issue proposed rules by April 20, 1987 (180 days after enactment), and final rules by October 17, 1987 (360 days after enactment), regarding: (1) The inspection of all public and private school buildings for ACM; (2) the identification of circumstances requiring response actions; (3) description of the appropriate response actions; (4) the implementation of response actions; (5) the establishment of a reinspection and periodic surveillance program for ACM; (6) the establishment of an operations and maintenance program for friable ACM; (7) the preparation and implementation of asbestos management plans by local educational agencies and the submission of the management plans to State Governors, who may review the plans and approve or disapprove them; and (8) the transportation and disposal of waste ACM from schools. This proposal implements the Title II requirements to issue the section 203 rules (except for transportation and disposal, as discussed further below).

Section 206 of TSCA Title II, 15 U.S.C. 2646, also requires EPA to issue by April 20, 1987, a final model accreditation plan for persons who inspect for asbestos, develop management plans, and design or conduct response actions, which appears elsewhere in this issue of the **Federal Register.** States are required to adopt an accreditation program at least as stringent as the EPA model within 180 days after the beginning of their next legislative session. Accreditation of laboratories which analyze asbestos bulk samples and asbestos air samples is also required by TSCA Title II. The National Bureau of Standards (NBS), U.S. Department of Commerce is required to establish the bulk sampling accreditation program by October 17, 1987, and the air sampling accreditation program by October 12, 1988.

States are required to notify LEAs by October 17, 1987, regarding where to submit management plans. LEAs must submit those plans to their State no later than October 12, 1988. The plans must include the results of school building inspections and a description of all response actions planned, completed, or in progress. After receiving a management plan, States are allowed 90 days to disapprove the plan. If the plan is disapproved, the State must provide a written explanation of the disapproval and the LEA must revise the plan within 30 days to conform with the State's suggested changes. The 30-day period can be extended to 90 days by the State. LEAs are required to begin implementation of their management plans by July 9, 1989, and to complete implementation in a timely fashion.

TSCA Title II requires that the transport and disposal provision be promulgated as a final rule at the same time as other provisions of regulations promulgated under AHERA. However, proposed rules on transport and disposal are not required to be issued at the same time as proposed rules for other provisions required by section 203 of AHERA. Regulations governing disposal of asbestos-containing waste, including school waste already regulated by the National Emission Standard for Hazardous Air Pollutants (NESHAP) (40 CFR Part 61, Subpart M) under the Clean Air Act (42 U.S.C. section 7401, *et seq.*), were promulgated by the Department of Transportation (DOT) on November 21, 1986. For purposes of TSCA Title II EPA believes that the combined current DOT regulations and the NESHAP will be sufficient to ensure the proper loading and unloading of vehicles and to ensure the physical integrity of containers. The NESHAP waste disposal regulations are currently being revised and are expected to be proposed during the summer of 1987.

B. Previous EPA Asbestos Activities

EPA has undertaken a variety of technical assistance and regulatory activities designed to control asbestos-containing materials in buildings and minimize inhalation of asbestos fibers.

1. *Technical assistance program.* Since 1979, EPA staff have assisted schools and other building owners in identifying and controlling ACM in their buildings. Through a cooperative agreement with the American Association of Retired Persons (AARP), EPA has hired architects, engineers, and other professionals to provide on-site assistance to school officials and other building owners. With AARP assistance, many school officials and building owners have effectively and safely dealt with ACM in ways that are appropriate for the particular situation in their building.

In addition, EPA has published state-of-the-art guidance to help identify and control asbestos in buildings. EPA's principal asbestos guidance document, "Guidance for Controlling Asbestos-Containing Materials in Buildings," (Purple Book) was expanded and updated in June 1985, based on recommendations from recognized

national experts. The document provides criteria for building owners to use in deciding which abatement method is most appropriate for each particular situation.

An important EPA goal has been to provide training for people involved in all aspects of the identification and control of asbestos. EPA has established five Asbestos Information and Training Centers to provide information concerning the identification and abatement of asbestos hazards and to train people in proper asbestos abatement techniques. The five centers are located at the Georgia Institute of Technology in Atlanta, the University of Kansas in Kansas City, Tufts University in Medford, Massachusetts, the University of Illinois in Chicago, and the University of California at Berkeley. Courses attended by more than 8,000 building owners and managers, maintenance personnel, school officials, architects, consultants, and abatement contractors have been taught at the centers since December 1984.

Finally, because of the large number of asbestos abatement projects and the short-term nature of many of them, EPA believes that contractors should be State certified and that States should oversee projects to ensure that they are properly performed. EPA has provided models for State certification legislation and start-up funding for the initiation of 38 State oversight programs.

2. *EPA's regulatory program.* In the **Federal Register** of May 27, 1982 (47 FR 23360), EPA issued a school identification and notification rule (hereinafter called the 1982 Asbestos-in-Schools Rule). This rule required school officials by June 28, 1983, to inspect all school buildings for friable materials, take a minimum of three samples of each type of friable material found, analyze samples using polarized light microscopy (PLM) to determine if asbestos is present, and keep records of the findings.

School district officials who found friable ACM were required to notify employees of the location of the materials, post a notification form in the primary administrative and custodial offices and faculty common rooms, provide maintenance and custodial employees with a guide for reducing asbestos exposure, and notify parent-teacher associations or parents directly of the inspection results.

EPA also issued a rule to protect public employees who perform asbestos abatement work in those States not covered by the current asbestos standard issued by the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor. This rule complements the OSHA asbestos regulations that protect private sector workers from exposure to asbestos in occupational settings. The rule requires specific work practices, personal protective equipment, environmental monitoring, medical exams, and other provisions. The EPA rule also includes a provision not in the OSHA rule, i.e., notification to EPA generally 10 days before an asbestos abatement project is begun when public employees are doing the work. In the **Federal Register** of June 20, 1986 (51 FR 22612), OSHA published revised regulations regarding occupational asbestos exposure. EPA published in the **Federal Register** of February 25, 1987 (51 FR 5618), revision of its worker protection rule to make it consistent with the new OSHA regulations.

3. *Recent developments.* EPA issued an Advance Notice of Proposed Rulemaking (ANPR) on August 12, 1986, entitled "Asbestos-Containing Materials in Schools: Inspection, Notification, Management Plans and Technical Assistance." The purpose of this ANPR was to solicit comments on the future direction of EPA's program to reduce risks from asbestos in schools and to solicit information about a variety of technical and policy issues. This proposal is a logical extension of the ANPR, which is incorporated in the record of this proceeding.

EPA had also initiated development of two new guidance documents on asbestos control. One document was being developed to provide more detailed guidance about assessing ACM in buildings and selecting abatement actions. A second document was being developed to provide more detailed guidance about practices and procedures which should be included in an operations and maintenance program. Both documents had been developed with the assistance of panels of national experts who convened in Washington, DC, to discuss technical and operational issues associated with these subjects. The work done in these two guidance documents has been valuable in developing provisions of this proposed rule.

Also, in 1986, EPA, in cooperation with the National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health and Human Services, published "A Guide to Respiratory Protection for the Asbestos Abatement Industry" to provide practical guidance in the selection and use of respiratory protection to persons who work in asbestos abatement. The "Guide" also provides information relevant to other work activities, such as maintenance or repair, where the exposure to asbestos or the potential for exposure exists. The "Guide" was updated in September 1986 to include the text of the OSHA June 1986 revision of its asbestos standard.

C. Use of Negotiated Rulemaking

This proposed rule was developed through the process of regulatory negotiation, an alternative process for developing regulations in which individuals and groups with negotiable interests directly affected by the rulemaking work together with EPA in a cooperative venture to develop a proposed rule by committee agreement. The negotiation group was established as a Federal Advisory Committee and consisted of representatives of national educational organizations, labor unions, asbestos product manufacturers, the environmental community, asbestos abatement contractors, professional associations of architects, consulting engineers, industrial hygienists, States, and EPA.

After an organizational meeting in Washington, DC, on January 23, 1987 (announced in the **Federal Register** on January 13, 1987, 52 FR 1377), the committee was established with 23 interests represented. Meetings were scheduled on February 5 through 6, February 17 through 18, March 9 through 10, March 26 through 27, and April 1 through 3. During the March 10, 1987 meeting, the plenary session of the committee accepted two more parties on the committee, one taking a seat representing State attorneys general, the other (representing big city schools) sharing a seat with a previously seated member representing big city schools.

The members of the negotiating committee and their interest represented are as follows:

1. Allen Abend, Council of Chief State School Officers.

2. Bill Borwegen, Service Employees International Union/Jordan Barab, American Federation of State, County and Municipal Employees (school service employees).

3. Dr. William Brown, Baltimore City Schools/Michael Young, New York City Law Department (big city schools).

4. Brian Christopher, Committee on Occupational Safety and Health.

5. Donald Elisburg, Laborers' International Union and Laborers-AGC Education and Training Fund.

6. Kellen Flannery, Council for American Private Education.

7. Steve Hays, Asbestos abatement engineer.

8. Jesse Hill, Manufacturers of asbestos pipe and block insulation products.

9. Edward Kealy, National School Boards Association.
10. Lloyd A. Kelley, Jr., Superintendent of Schools, Rutland S.W. Vermont, Supervisory Union (rural schools).
11. William Lewis, Manufacturers of asbestos surfacing products.
12. Lynn MacDonald, Sheet Metal Workers International Association.
13. Claudia Mansfield, American Association of School Administrators.
14. Roger Morse, American Institute of Architects.
15. David Ouimette, Colorado Department of Health (states with developing asbestos programs).
16. Joel Packer, National Education Association.
17. Robert Percival, Environmental Defense Fund.
18. Miriam Rosenberg, National PTA.
19. Paul Schur, Connecticut Department of Health/Dr. Donald Anderson, Illinois Department of Public Health (states with implemented asbestos programs).
20. Robert Sheriff, American Industrial Hygienists Association.
21. David Spinazzolo, Association of Wall and Ceiling Industries (asbestos abatement contractors).
22. Susan Vogt, U.S. E.P.A.
23. John Welch, Safe Buildings Alliance (former manufacturers of asbestos products).
24. Margaret Zaleski, National Association of State Attorneys General.

Facilitation Team and Executive Secretary

Owen Olpin, Consultant to EPA
Eileen B. Hoffman, Federal Mediation & Conciliation Services
Kathy Tyson, U.S. E.P.A. (Executive Secretary)
Leah Haygood, The Conservation Foundation
Dan Dozier, Federal Mediation & Conciliation Services
John Wagner, Federal Mediation & Conciliation Services

The committee met in plenary sessions as well as in four work groups. Each work group focused on a cluster of related issues and reported to the plenary on options and recommendations. The plenary retained all decision-making power of the committee and often gave guidance to work groups. Generally, for each day of a plenary session, work groups convened the day before to prepare reports for the plenary. Neutral facilitators were present at all work group and plenary meetings to assist the negotiations in moving forward.

At the end of the 2-month negotiating process on April 3, 1987, and after extensive efforts, the committee was in general agreement on the vast majority of issues before it for the purposes of the proposal. Agreement to solicit further comment about alternatives was often important in developing provisions to be included as proposals. At the close of the negotiations, some items remained at issue and were not subject to universal agreement. These consisted of the following: definitions and response actions for damaged and significantly damaged thermal system insulation ACM (relates to being deemed non-friable in the inspection section) and damaged and significantly damaged friable surfacing and miscellaneous ACM. Also, the definition of asbestos debris and the nature of cleaning practices (initial and routine) for friable ACBM or damaged or significantly damaged thermal insulation under the operations and maintenance section were still at issue. While extending negotiations beyond April 3, 1987 may well have enabled the committee to resolve these issues, the Congressional April 20, 1987 deadline for issuing a proposed rule precluded this possibility. Although **Federal Register** practices preclude the Agency from highlighting these issues in the text of the proposed rule, the public docket contains a copy of the proposed rule which clearly identifies the sections which contain these unresolved issues.

On April 3, 1987, the facilitators prepared, for members' signatures, statements supporting the use of the agreed-on portions of the regulatory language as a basis for a Notice of Proposed Rulemaking. Members representing 20 of the 24 interests seated on the committee signed these statements. Members representing 4 of the interests seated on the committee did not sign the statements, due to the status of the unresolved issues described above. Mr. Paul Schur, a co-representative of states with an implemented asbestos program (an interest that did not sign), signed in an individual capacity. All committee members, signatories and non-signatories alike, have retained for themselves and for their constituencies all rights which bear on the rulemaking, including the right to comment fully during the public comment period.

Notably, signatories supporting the agreed-on regulatory language as a basis for a Notice of Proposed Rulemaking did so in considering that language as a whole. The agreed-on language is not necessarily ideal from any one party's interests.

II. Provisions of the Proposed Rule

A. Introduction

This unit describes the various provisions of the proposed rule. Following a discussion of applicable regulatory definitions in Unit B and general responsibilities in Unit C, inspections and reinspections, sampling and analysis, and assessment of materials are discussed in Units D, E, and F, respectively. In Unit G, the major elements of the management plan, availability of the plan, and review of the plan by Governors are discussed.

Unit H describes proposed requirements for response actions to be taken by LEAs under circumstances described in that section. Section I explains proposed requirements for air sampling for determining when a response action has been completed.

Unit J discusses requirements to use accredited persons to inspect buildings for asbestos, develop management plans, and design or conduct response actions. Proposed requirements to protect abatement workers, custodial and maintenance staff, and building occupants are explained in Unit K.

Waivers for all or part of a State asbestos program are described in Unit L, including information required in the waiver request and the process for granting or denying such waivers. Proposed requirements for recordkeeping and enforcement provisions are described in Units M and N, respectively.

B. Definitions

The negotiating committee spent much of its time crafting definitions of key concepts for the proposed regulation. Several important definitions are discussed below.

"Asbestos-containing building material (ACBM)" was proposed as a general concept encompassing surfacing ACM, thermal system insulation ACM, and miscellaneous ACM in or on interior parts of the school building. These include specified exterior portions of school buildings that, for the purposes of this rule, may fairly be considered interior parts. EPA focused upon interior building materials because, in the Agency's experience, such materials represent a very large percentage of ACM in schools and appear to pose the greatest hazards to occupants. There was considerable discussion regarding other exterior asbestos materials and nonbuilding ACM inside schools, such as asbestos gloves or vehicle brake linings in garages or automotive shops, but these were not included in the definition.

The definition of "school building," in the proposed rule however, makes it clear that exterior hallways connecting buildings, porticos, and mechanical system insulation are considered to be in a building and are subject to jurisdiction under TSCA Title II. The committee believed that these exterior areas, by virtue of the accessibility of the ACM found there, warranted inclusion under the standard. Often, these exterior areas are connected to interior areas and could be considered to be a single homogeneous area in terms of a removal project design.

"Asbestos debris" is defined as pieces of ACBM that can be identified by color, texture, or fiber content as originating from adjacent ACBM. Previous Agency guidance has suggested that dust be assumed as ACM, and treated accordingly. Some committee members claimed, particularly in schools where chalk is commonly used, that dust is often not asbestos-containing and therefore areas of unidentified dust should not necessarily be subject to special cleaning practices.

"Damaged or significantly damaged thermal system insulation ACM" is defined as ACM on pipes, boilers, and other similar components and equipment where the insulation has lost its structural integrity or its covering is not intact such that it is not able to contain fibers. An accredited inspector shall classify this material based upon a determination of damage or significant damage and an accredited management planner shall recommend in writing appropriate response action.

Such damage or deterioration may be illustrated by ACM hanging from pipes; crushed, water-damaged or otherwise injured ACM; sections of ripped, torn or missing protective coverings/ jackets. It may further be illustrated by occasional punctures, gouges or other signs of physical injury to ACM; occasional water damage on the protective coverings/jackets; or exposed ACM ends or joints. The definition allows that even though the insulation is marred, scratched or otherwise marked, it may not be, in the judgment of the accredited expert, damaged so as to release fibers.

EPA is interested in comments as to whether or not, in the absence of physical deterioration, the physical presence of detectable amounts of asbestos fibers of ACM powder, dust or debris from the ACM in the area is sufficient to establish such deterioration or damage.

"Damaged friable surfacing ACM" is defined as ACM which has deteriorated or sustained physical injury such that the cohesion of the material or its adhesion to the substrate is inadequate, or which, for any other reason, lacks fiber cohesion or adhesion qualities. Accredited experts will classify material based upon a determination of damage and recommend appropriate response actions.

Such damage or deterioration may be illustrated by delamination (such as the separation of ACM into layers); adhesive failure (separating of ACM from the substrate); flaking, blistering or crumbling of the ACM surface; water damage; significant or repeated water stains, scrapes, gouges, mars or other signs of physical injury on the ACM. The definition allows that such surfacing material may show signs of water damage or physical injury without, in the judgment of the accredited expert, always demonstrating a lack of fiber cohesion or adhesion.

As with thermal system insulation, EPA is interested in comments as to whether or not, in the absence of physical deterioration of asbestos fibers or ACM powder, dust or debris from the ACM in the area is sufficient to establish such deterioration or damage.

"Miscellaneous ACM" includes a wide variety of materials in buildings, such as vinyl flooring, fire-resistant gaskets and seals, and asbestos cement. Presently, damage to these materials is defined by the same cohesion and adhesion (if appropriate) properties as surfacing materials. The Agency believes this definition is sufficiently general to provide a reasonable approach to assessing damage to so wide a range of materials, although it is interested in receiving comments on this topic. Other committee members expressed interest in soliciting public comment on whether miscellaneous ACM should include non-building ACM, such as asbestos gloves or brake linings.

"Significantly damaged friable surfacing ACM" is defined as material in a functional space where the damage is extensive and severe. (The definition of significantly damaged friable miscellaneous ACM closely parallels the definition for significantly damaged surfacing ACM.) Again, this determination of significant damage will be made by accredited experts.

The definition is a function of two major factors. The first factor deals with extent, or scope, of damage across a functional space. The Agency, in draft guidance, suggested that damage evenly distributed across one-tenth of a functional space or localized over one-quarter represented significant damage (See Seventh Draft Report, "Guidance for Assessing and Managing Exposure to Asbestos in Buildings," November 7, 1986, p. 9). This represents a level of damage which a panel of experts, convened by the Agency, believed was generally, although perhaps not always, unreasonable to repair or restore.

The second factor involves the degree or severity of the damage itself. A major delamination of asbestos material, for instance, constitutes damage which is more severe than slight marks or mars. ACM, in the accredited expert's judgment, may be so severely damaged that there is no feasible means of restoring it to an undamaged condition.

Material has potential for significant damage as opposed to only potential for damage if it is accessible (i.e., subject to disturbance by school building occupants or workers in the course of the normal activities). Material within reach of students above an entrance is clearly accessible. Thermal system insulation running along the base of a wall in a boiler room is also accessible. Material on the ceiling of a school auditorium, beyond the reach of students, is not. ACM on a high school gymnasium ceiling, which might be reached with basketballs or other objects, is subject to either classification, although an LEA might be well advised in this instance to implement a preventive measure to avoid disturbance.

The negotiating committee and EPA contemplated a wide range of "preventive measures." One example is the installation of a stop to prevent a door from striking (and damaging) thermal system insulation ACM behind it. Another might involve restricting access of a corridor with surfacing ACM on a low ceiling, where students continually marred and vandalized the material. The problem of high school students hitting the gym ceiling with basketballs may be eliminated by a policy prohibiting such activities, if it can be effectively implemented. LEAs, in consultation with maintenance staff and, if desired, accredited experts, will identify a variety of creative and effective means of eliminating potential damage or significant damage to ACM.

If, however, such preventive measures cannot be effectively implemented, other response actions, including removal, will be required. The Act is clear that EPA, as part of its rulemaking, direct LEAs to mitigate those circumstances which involve potential for significant damage.

The "enclosure" definition requiring an airtight, impermeable, permanent barrier around ACBM to control the release of asbestos fibers into the air does not contemplate a vacuum-sealed area which is impossible to access. Instead, this definition, used in the National Institute of Building Sciences'

(NIBS') "Model Guide Specifications, Asbestos Abatement in Buildings," July 18, 1986, is associated with precise engineering specifications, found in Section 09251 and elsewhere in the NIBS' Model Guide, to construct enclosures sufficiently to control fibers. Also, this term, from the standpoint of permanence, is not intended to apply to mini-enclosures described in the EPA worker protection rule or Appendix B of the proposed regulation, as these enclosures are used temporarily for repair or abatement activities.

"Functional space" is a term of art used by the accredited expert to appropriately characterize an area as containing "significantly damaged friable surfacing ACM" or "significantly damaged friable miscellaneous ACM." The "functional space" may be a room, group of rooms, or a homogeneous area, as determined appropriate by the accredited expert. Note that the functional space includes the area above a dropped ceiling.

C. LEA General Responsibilities

The proposed rule requires LEAs to designate a person to carry out certain duties and ensure that such person receives training adequate to perform the duties.

Proposed § 763.83 requires LEAs to ensure that: (1) Inspections, reinspections, periodic surveillance and response action activities are carried out in accordance with the proposed rule; (2) custodial and maintenance employees are properly trained as required by this proposed rule; (3) workers and building occupants are informed annually about inspections, response actions, and post-response action activities including reinspections and periodic surveillance; (4) short-term workers (e.g., telephone repair workers) who may come in contact with asbestos in a school are provided information about locations of asbestos-containing building material (ACBM) and are instructed in safe work practices; (5) warning labels are posted as required by this proposed rule; and (6) management plans are available for review and that parent, teacher, and employee organizations are notified of the availability of the plan.

D. Inspections and Reinspections

1. Inspections.

Proposed § 763.85 would require LEAs to have an accredited inspector visually inspect all areas of each school building to identify locations of all friable and nonfriable suspected ACBM, determine friability by touching, and either sample the suspected ACBM or assume that suspected materials contain asbestos. The inspector must then develop an inventory of areas where samples are taken or material is assumed to contain asbestos. Finally, the accredited inspector is required to assess the physical condition of friable known or assumed ACBM as required under proposed § 763.88.

2. Exclusions.

Proposed § 763.99 defines conditions that would exclude an LEA from all or part of the initial inspection. The accredited inspector is a key element in the exclusion process. For all inspection exclusions, areas previously identified as having friable ACM or non-friable ACM that has become friable would have to be assessed as required under proposed § 763.88. All information regarding inspection exclusions shall be placed in the management plan.

Five types of exclusions for LEAs are discussed in the proposed rule. First, LEAs do not need to have an initial inspection conducted in specific areas of a school where ACBM has already been identified. Second, if previous sampling of a specific area of the school indicated that no ACM was present, and the sampling was done in substantial compliance with the proposed rule, the LEA does not have to perform an initial inspection of that area. Third, LEAs do not have to inspect specific areas of schools where records indicate that all ACM was removed. Fourth, LEAs can receive an inspection exclusion for schools built after October 12, 1988 (the date when management plans are to be submitted to Governors), if no ACBM was specified for use in the school. Fifth, States that receive a waiver from the inspection requirements of the rule can grant exclusions to schools that had performed inspections in substantial compliance with the rule.

3. Reinspections.

Proposed § 763.85(b) would require LEAs to have accredited inspectors conduct reinspections at least once every 3 years. The inspector must reinspect all known or assumed ACBM and shall determine by touching whether non-friable material has become friable since the last inspection. The inspector may sample any newly friable materials or continue to assume the material to be ACM. The inspector shall record changes in the material's conditions, sample locations, and the inspection date for inclusion in the management plan. In addition, the inspector must assess newly friable known or assumed ACBM, re-assess the condition of friable known or assumed ACBM, and include assessment and reassessment information in the management plan.

Proposed § 763.85(c) states that thermal system insulation that has retained its structural integrity and that has an undamaged protective jacket or wrap is deemed non-friable.

E. Sampling and Analysis

1. Sampling.

Proposed § 763.86 would permit an LEA to assume that suspected ACBM is ACM. If the LEA does not assume suspected ACBM to be ACM, the LEA shall use an accredited inspector to collect bulk samples for analysis.

EPA expects that a school is likely to sample only friable suspected ACBM. For non-friable suspected ACBM, EPA anticipates most schools will assume this material contains asbestos. However, this proposed rule does not preclude a school from sampling all of its suspected ACBM, both friable and nonfriable. Sampling of friable surfacing materials should follow the guidance provided in the EPA publication "Simplified Sampling Scheme for Friable Surfacing Materials" (EPA 560/5–85–030a). To determine whether an area of surfacing material contains asbestos, sufficient samples shall be taken in a statistically random manner to provide data representative of each homogeneous area being sampled.

In most cases, sampling of thermal system insulation would require an accredited inspector to take at least three randomly distributed samples per homogeneous area. The proposed rule includes three exceptions to this proposed requirement for sampling of thermal system insulation. First, an accredited inspector can determine through visual inspection that the material is non-ACM (e.g., fiberglass). Second, only one sample is required for patched homogeneous areas of thermal system insulation. Third, an accredited inspector needs to collect an appropriate number of samples to determine whether cement tees are ACM.

For friable miscellaneous material or non-friable suspected ACBM, an accredited inspector must collect bulk samples in an appropriate manner.

2. Analysis.

Proposed § 763.87 requires analysis of bulk samples by laboratories accredited by NBS. In the period before NBS has developed its accreditation program, laboratories which have received interim accreditation from EPA may be used to analyze samples. After receiving the sample results, the LEA must consider an area to contain asbestos if

asbestos is present in any sample in a concentration greater than 1 percent. Compositing of samples (mixing several samples together) is prohibited.

The 1982 EPA rule "Asbestos in Schools: Identification and Notification", 40 CFR 763, Subpart F, required analysis of bulk asbestos samples by PLM and provided a protocol for analysis in its Appendix A. EPA proposes to require use of the same PLM method for this proposed rule. As it develops the accreditation process for laboratories performing analysis of bulk samples, NBS will consider whether to change the PLM protocol. If NBS recommends changes, EPA will amend this rule accordingly.

F. Assessment

Proposed § 763.88 outlines a general assessment procedure to be conducted by an accredited inspector during each inspection or reinspection. The inspector is required to classify ACBM and suspected ACBM assumed to be ACM in the school building into broad categories appropriate for response actions. Assessment may include a variety of considerations, including the location and amount of material, its condition, accessibility, potential for disturbance, known or suspected causes of damage, or preventive measures which might eliminate the reasonable likelihood of damage. The LEA is directed to select an accredited management plan developer who, after a review of the results of the inspection and the assessment, shall recommend in writing appropriate response actions.

G. Management Plans

Proposed § 763.93 requires LEAs to develop an asbestos management plan for each school under its administrative control or direction. The plan must be developed by an accredited asbestos management planner. Some of the major components required in the plan include: A description of inspections and response actions; an assurance that accredited persons were used to conduct inspections, develop management plans, and design or conduct response actions; and a plan for reinspection and operations and maintenance.

Each LEA is required to maintain a copy of the management plan in its administrative office, and each school is required to maintain a copy of its management plan in its administrative office. These plans are to be made available for inspection by the public without cost or restriction. LEAs must notify parent, teacher, and employee organizations of the availability of management plans upon submission of the plan to the State and at least once each school year.

Proposed § 763.93 would require local LEAs to submit their management plans to their States on or before October 12, 1988. Each LEA must begin implementation of its management plan on or before July 9, 1989, and complete implementation of the plan in a timely fashion.

H. Response Actions

The proposed rule identifies five major response actions—operations and maintenance (O&M) in proposed § 763.91 and in proposed § 763.90, repair, encapsulation, enclosure and removal—and describes appropriate conditions under which they may be selected by the LEA. The proposed rule also identifies the steps which shall be taken to properly conduct and complete the response actions.

The LEA is required to select and implement in a timely manner the appropriate response action. Local education agencies are required to use accredited persons to design or conduct response actions. Proposed § 763.90 specifically provides that nothing in the proposed rule shall be construed to prohibit the removal of ACBM from a school building at any time, should removal be the preferred response action of the local education agency.

Different response actions are required for each of the five major categories of damaged or potentially damaged ACBM. These categories are:

1. Damaged or significantly damaged thermal system insulation ACM.
2. Damaged friable surfacing or miscellaneous ACM.
3. Significantly damaged friable surfacing or miscellaneous ACM.
4. Friable surfacing or miscellaneous ACM, and thermal system insulation ACM which has potential for significant damage; and
5. Friable surfacing or miscellaneous ACM, thermal system insulation ACM which has potential for damage.

In each of the categories above, procedures for appropriately controlling or abating the hazards posed by the ACBM are set forth. (1) For damaged or significantly damaged thermal system insulation, the LEA must at least repair the damaged area. If it is not feasible, due to either technological factors or economic considerations, to repair the damaged material, it must be removed. Further, the LEA must maintain all thermal system insulation in an intact state and undamaged condition. (2) If damaged friable surfacing or miscellaneous ACM is present, the LEA shall encapsulate, enclose, remove, or repair the damaged area. In selecting the appropriate response action, the LEA may consider local circumstances, including occupancy and use patterns within the school building, and economic concerns, such as short- and long-term costs. (3) When friable surfacing or miscellaneous ACBM is significantly damaged, the LEA must immediately isolate the functional space and then must remove the material in the functional space, unless enclosure or encapsulation would be sufficient to contain fibers.

For 4 and 5 above, response actions for ACBM with potential for damage and potential for significant damage emphasize O&M and preventive measures to eliminate the reasonable likelihood that damage will occur. (4) When potential damage is possible, the LEA must at least implement an O&M program. (5) If there is potential for significant damage and preventive measures cannot be effectively implemented, response actions other than O&M or area isolation may be required.

Proposed § 763.91 would require the LEA to implement an operations, maintenance and repair (O&M) program for any school building in which friable ACBM is present or assumed to be present in the building or about to become friable. The O&M program, which must be documented in the LEA management plan, consists of worker protection (summarized in Unit II.K. below), worker training, periodic surveillance, cleaning, operations and maintenance activities (also in Unit II.K.), and fiber release episodes.

The LEA shall ensure that all members of its maintenance and custodial staff receive at least 2 hours of awareness training. The LEA must also ensure that staff who conduct any activities which will disturb ACBM receive an additional 14 hours of training. Specific topics to be covered in the 2-hour and 14-hour training courses are listed.

An initial cleaning is required, which employs wet methods and is conducted at least once after completion of the inspection and before the initiation of a response action other than an O&M activity.

Proposed § 763.91(d) would require periodic surveillance to be performed at least once every 6 months. The LEA may use unaccredited personnel such as custodians or maintenance workers to conduct surveillance activities. Periodic surveillance requires checking known or assumed ACBM to determine if the ACBM's physical condition has changed since the last inspection or surveillance. The date of the surveillance and any

changes in the condition of the ACBM must be added to the management plan.

The proposed rule requires that O&M activities, other than small-scale, short-duration activities, which disturb asbestos shall be designed and conducted by persons accredited to do such work. (A discussion of what constitutes small-scale, short-duration projects is given Appendix B to this rule.) Finally, procedures are provided for responding to fiber release episodes—the uncontrolled or unintentional disturbance of ACBM. For minor episodes (i.e., those involving 3 square or linear feet or less of ACBM), basic cleaning and containment practices for O&M staff are listed. For larger amounts, accredited personnel are required to respond.

I. Completion of Response Actions

After performing a thorough visual inspection, air testing is used to determine if a response action has been completed. Clearance air monitoring will not be required for small-scale, short-duration projects. Phase Contrast Microscopy (PCM) is allowed for response actions involving 260 linear or 160 square feet or less, the amounts used to trigger removal requirements under EPA's NESHAP (40 CFR Part 61, Subpart M).

The proposed rule requires the use of transmission electron microscopy (TEM) for most removal, enclosure, and encapsulation response actions. EPA continues to believe that TEM is the method of choice for air sample analysis because, unlike PCM, TEM analysis can distinguish asbestos from other fibers and detect the small thin fibers found at abatement sites. Therefore the use of TEM will significantly improve the adequacy of cleanup and is recommended over PCM when available. However, due to limited availability of microscopes for air sample analysis and the cost and time associated with TEM analysis, the proposed rule allows a phase-in period for the TEM requirement. For 2 years after the rule becomes effective, local education agencies may choose to use PCM for response actions comprising 3,000 square or 1,000 linear feet or less. For 1 year after this, LEAs may use PCM for clearance of projects of 1,500 square or 500 linear feet or less. LEAs retain full discretion to require use of TEM at any time for any project.

The criterion for determining whether a response action is complete when using PCM will require multiple samples (minimum of five) with clearance allowed only if all of the individual samples are below the limit of quantitation of the PCM method (0.01 fibers/cm^3). The proposed rule would require persons to use the EPA/OSHA Reference Method found in Appendix A to 40 CFR 763.121 for PCM clearance. This method is identical to the OSHA Reference Method found at Appendix A to 1929 CFR 1926.58 and very similar to the NIOSH 7400 method. (OSHA's rationale for adopting the method is found at 51 FR 22684–22692, June 20, 1986. EPA adopts OSHA's reasoning.)

The proposed rule has a three-step process for using TEM to determine successful completion of a removal response action. The first step is a careful visual inspection, as mentioned above. The two steps that follow involve a sequential evaluation of the five samples taken inside the worksite and five samples taken outside the worksite. Both sets of samples must be taken at the same time to ensure that atmospheric conditions are the same and that the comparisons are valid. The inside samples are analyzed first. If the average concentration of the inside samples does not exceed the limit of quantitation for the TEM method (discussed in detail in Appendix A of this proposed rule), then the removal is considered complete.

Step three is taken if the average concentration of the samples taken inside the worksite are greater than the TEM limit of quantitation. In this case, an encapsulation, enclosure, or removal response action is considered complete when the average of five samples taken inside the worksite is not significantly larger than the average of five samples taken outside the worksite. A statistical comparison using the Z-Test must be used to determine whether the two averages are significantly different. (A discussion on how to compare measured levels of airborne asbestos with the Z-Test is given in Appendix A of this proposed rule.) If the concentrations are not significantly different, then the response action is considered complete. If the inside average concentration is significantly higher, recleaning is required and new air samples must be collected and evaluated after the worksite has been cleaned and reinspected.

J. Use of Accredited Persons

Section 206 of Title II of TSCA requires accreditation of persons who:

1. Inspect for ACM in school buildings.
2. Prepare management plans for such schools.
3. Design or conduct response actions with respect to friable ACM in such schools (other than O&M activities).

The Model Plan requires persons seeking accreditation to take an initial course, pass an examination, and participate in continuing education. Persons can receive accreditation from a State that has instituted an accreditation program at least as stringent as the requirements of the Model Plan. In addition, persons in States that have not yet developed programs at least as stringent as the Model Plan can receive accreditation by passing an EPA-approved training course and exam that are consistent with the Model Plan.

Section 206 of Title II of TSCA requires EPA to develop a Model Contractor Accreditation Plan by April 20, 1987. The plan appears as Appendix C to Subpart E. A notice issuing the plan appears elsewhere in this edition of the **Federal Register.**

K. Worker and Occupant Protection

Worker protection requirements for removal, encapsulation and/or enclosure response actions are already in effect under the EPA worker protection rule (40 CFR 763.121, *et seq.*); and the OSHA construction standard (29 CFR Subpart G). EPA's NESHAP standard, although designed to protect outdoor air, also provides incidental protection to workers.

Essentially, under proposed § 763.91, the regulation extends coverage of EPA's worker protection rule at 40 CFR 763.121 to maintenance and custodial personnel in schools who perform O&M activities but are not covered by OSHA's construction standard or an asbestos regulation under an OSHA approved state plan. The EPA worker protection rule itself extended the same protections as this OSHA construction standard to asbestos abatement workers who are employees of state and local governments and who are not otherwise covered by OSHA regulation or OSHA approved state plans. This proposed rule further extends these standards to O&M workers who are LEA employees. These regulations basically establish a Permissible Exposure Limit (PEL) of 0.2 fibers per cubic centimeter (f/cm^3) over an 8-hour period for abatement project workers exposed to airborne asbestos and an action level of 0.1 f/cm^3 which triggers a variety of worker protection practices. These practices include air monitoring, regulated work areas, engineering and work practice controls, respiratory protection and protective clothing, hygiene facilities and practices, worker training, medical surveillance, and recordkeeping requirements.

As an alternative, however, OSHA's standard allows employers to institute the provisions of its Appendix G in the case of small-scale, short-duration projects rather than comply with the full

worker protection standard. Appendix B to this proposed rule is an adaptation of OSHA's Appendix G and, thus, allows more flexibility in dealing with minor (small-scale, short-duration) projects.

None of the requirements of the OSHA standard or the EPA worker protection rule would apply if asbestos concentrations are below the action level (0.1 f/cm³). There are, however, fairly stringent requirements established by OSHA and proposed to be adopted by EPA for purposes of this rule to show that levels are below this action level for any activity, including small-scale, short-duration projects. These requirements are discussed in the following paragraphs.

Employers who have a workplace or work operation covered by the EPA worker protection rule must perform initial monitoring to determine the airborne concentrations of asbestos to which employees may be exposed. If employers can demonstrate that employee exposures are below the action level (0.1 f/cm³) by means of objective data, then initial monitoring is not required. If initial monitoring indicates that employee exposures are below the PEL, then periodic monitoring is not required.

The exemption from monitoring in paragraph (f)(2)(iii) of the worker protection rule for employers who have historical monitoring data is included in recognition of the fact that many employers have conducted or are currently conducting exposure monitoring. This exemption would prevent these employers from having to repeat monitoring activity for O&M activities that are substantially similar to previous jobs for which monitoring was conducted.

However, for purposes of this rule, EPA proposes that such monitoring data must have been obtained from projects conducted by the employer that meet the following conditions:

1. The data upon which judgments are based are scientifically sound and collected using methods that are sufficiently accurate and precise.

2. The processes and work practices in use when the historical data were obtained are essentially the same as those to be used during the job for which initial monitoring will not be performed.

3. The characteristics of the asbestos-containing material being handled when the historical data were obtained are the same as those on the job for which initial monitoring will not be performed.

4. Environmental conditions prevailing when the historical data were obtained are the same as for the job for which initial monitoring will not be performed.

When OSHA issued the final asbestos standard on June 20, 1986 (51 FR 22664), it published data from routine facility maintenance which "demonstrates a potential for exposure of maintenance personnel to concentrations exceeding 0.5 f/cm³ (fibers per cubic centimeter)." OSHA further stated:

> With the exception of wet handling, which is feasible in only very limited situations due to problems such as electrical wiring, and the use of HEPA vacuums for the clean-up of any debris generated during maintenance activities, OSHA believes that there do not appear to be any feasible engineering controls or work practices available to reduce these potential exposures to levels below the 0.2 f/cm³ PEL and that respirators will be required to comply with the 0.2 f/cm³ PEL.

LEAs are required, under the provisions of § 763.91 of this proposal, to ascertain, through monitoring procedures or historic monitoring data, and to document that these levels have not been reached.

Under proposed § 763.91, basic occupant protection requirements are established (regardless of air level) for any O&M activity in a school building which disturbs ACBM. Primarily, access must be restricted, signs posted, and air movement outside the area modified. Necessary work practices shall be implemented to contain fibers, the area shall be properly cleaned after the activity is completed, and asbestos debris must be disposed of in a proper manner.

Proposed § 763.95 requires the LEA to attach warning labels immediately adjacent to any friable and non-friable ACBM or suspected ACBM in routine maintenance areas, such as boiler rooms, until the material is removed. They shall read, in large size or bright colors, as follows: CAUTION: ASBESTOS. HAZARDOUS. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT.

L. Waiver for State Programs

Proposed § 763.98 provides a procedure to implement the statutory provision that a State can receive a waiver from some or all of the requirements of the proposed rule if the State has established and is implementing or intends to implement a program of asbestos inspection and management at least as stringent as the requirements of the proposed rule. The proposed rule requests specific information to be included in the waiver request submitted to EPA, establishes a process for reviewing waiver requests, and sets forth procedures for oversight and rescission of waivers granted to States.

Within 30 days of receiving a waiver request, EPA must determine whether the request is complete. Within 30 days after determining that a request is complete, EPA will issue in the **Federal Register** a notice that announces receipt of the request and solicit written comments from the public. Comments must be submitted within 60 days. If, during the comment period, EPA receives a written objection to the State's request or a written request for a public hearing, EPA will schedule a public hearing (as is required by TSCA Title II) to be held in the affected State after the close of the comment period. EPA will issue a notice in the **Federal Register** announcing its decision to grant or deny, in whole or in part, a request for waiver within 30 days after the close of the comment period or within 30 days following a public hearing.

M. Recordkeeping

Proposed § 763.94 requires that LEAs collect and retain various records which are not part of the information submitted to the Governor in the management plan. Records required by the proposed rule include those pertaining to certain events which occur after the submission of the management plan, including: Response actions and preventive measures; fiber release episodes; periodic surveillance; and various operations and maintenance activities.

N. Enforcement

The proposed rule includes civil penalities of up to $5,000 per day for violations of Title II of TSCA when an LEA fails to conduct inspections in a manner consistent with this proposed rule, knowingly submits false information to the Governor, or fails to develop a management plan in a manner consistent with this proposed rule. The proposed rule also includes civil penalties of up to $25,000 per day for violations of Title I of TSCA when a person fails or refuses to establish or maintain records, or fails or refuses to permit entry or inspection. Criminal penalties may be assessed if any violation committed by any person (including an LEA) is knowing or willful.

The proposed rule provides a process for filing complaints by citizens and requires that such complaints be investigated and responded to within a reasonable period of time consistent with the nature of the violation alleged.

III. Options Considered

A. Introduction

This unit discusses approaches and options considered by the committee or

its work groups and solicits comments. This unit identifies issues which were controversial, unresolved, or in need of further public comment. Issues for which comment is especially encouraged are so noted.

B. Local Education Agencies' General Responsibilities

Members of the negotiating committee discussed the possibility of requiring LEAs to appoint an Asbestos Program Manager to carry out the functions specified in proposed § 763.83. The appointment of an Asbestos Program Manager is recommended in "Guidance for Controlling Asbestos-Containing Materials in Buildings," EPA's principal asbestos guidance document. A requirement for a specific amount of training for the Asbestos Program Manager was also discussed by the negotiating committee.

Appointment of a trained Asbestos Program Manager is not required by Title II of TSCA. The committee generally agreed to require that LEAs designate a person to oversee or coordinate asbestos-related activities and serve as a contact person about those activities. They also agreed to require "adequate" training be given to perform these duties. There is no designation of such persons as an "Asbestos Program Manager" nor any specification of the amount of training.

EPA invites comment on the issue of the duties of the person designated by LEAs and whether a more specific training requirement is appropriate. A number of committee members wanted comments on how LEAs would notify parents about actions taken under the management plan.

C. Inspections, Reinspections, and Exclusions

The negotiating committee discussed a number of major options regarding inspections, reinspections, and exclusions. The primary issue involved the scope of the inspection. Some members of the committee believed that only interior areas ACBM should be inspected. Other committee members emphasized the need to inspect both the interior and the exterior of school buildings. The proposed rule would require LEAs to inspect interior ACBM and limited exterior locations such as porticos, exterior covered hallways and walkways and the exterior portion of a mechanical system used to condition interior space.

EPA believes that the jurisdiction of TSCA Title II may be limited to asbestos materials "in" school buildings, apart from the specified exterior areas previously identified. EPA is interested in receiving comments on the issue of whether exterior materials should be included in the definition of "school building" and thereby included in the inspection requirement.

The second major issue discussed by the committee was the idea of a national standard inspection form. Many members believed that a required form would standardize the information collected and reported by inspectors, while other members argued that a form might unduly limit the types and amount of information reported by the inspector. The inspection form is not required in the proposed rule. However, the issue was raised whether the final rule should recommend a particular form. In conjunction with the final rule, EPA plans to distribute a nonmandatory example form that States may use to standardize the inspection process. EPA requests comment on whether a form should be required.

The regulatory negotiation committee also focused on which types of school buildings could be covered under the rule. Specifically, many panel members believe student dormitories should be covered by the rule. However, Congress did not specifically include these facilities in the statutory language of Title II. The proposed rule would require dormitories to be inspected. Because Title II defines a school building as a "facility used for the administration of educational or research programs," EPA believes that it is a reasonable interpretation of TSCA Title II to include dormitories, but that expanding beyond dormitories would be an unreasonable extension of this statutory jurisdiction.

Another issue discussed by the regulatory negotiation committee was the criteria for exempting schools from the inspection requirements of this rule if previous inspections had been conducted. Committee members expressed concern that the vast majority of previous inspections could not meet all of the inspection requirements of the proposed rule. Most inspections may not have included non-friable ACM and EPA's 1982 Asbestos-in-Schools rule did not require inspection of non-friable ACBM. The negotiating committee established a mechanism to grant exclusions from the requirement of this proposed rule for previous inspections for friable materials if conducted in substantial compliance with this proposed rule.

Proposed section § 763.85(c) deems as non-friable thermal system insulation ACM that has retained its structural integrity and that has an undamaged protective jacket or wrap which prevents fiber release. EPA stated its intention before the committee to include this provision in the proposed rule. The committee, however, did not agree to this language. EPA has traditionally treated undamaged thermal system insulation ACM as non-friable for the purposes of a variety of O&M activities, including routine cleaning. Typically, such ACBM is a less significant source of airborne asbestos fibers than surfacing ACM.

The Agency recognizes that thermal system insulation ACM, even if structurally sound and completely covered, may still be friable by nature under its covering. However, given structural integrity and an undamaged protective wrap, the covering effectively acts as an enclosure to prevent fiber release. Undamaged thermal system insulation ACM is still subject to periodic surveillance and protective measures, if accessible, to ensure that it remains in an undamaged state. Further, the response action for this material requires at least repair whenever damage is detected. The Agency is interested in comments on this approach.

D. Sampling and Analysis

1. Sampling

The regulatory negotiation committee focused on three key issues regarding sampling. First, the committee believed LEAs should have the option to assume suspected ACBM are ACM rather than requiring sampling of all suspected ACBM. As a result, the proposed rule provides LEAs with the option of taking samples or assuming material is ACM. Second, the committee discussed sampling of friable materials to a much greater extent than sampling of non-friable materials. EPA anticipates that most schools will choose to sample friable materials and to assume non-friable suspected ACBM is ACM. Third, the committee provided flexibility in the sampling requirements for thermal system insulation and friable miscellaneous materials. EPA believes this will help reduce sampling costs by reducing the number of samples that need to be taken.

2. Analysis

A portion of the discussion on bulk sampling requirements consisted of questions about methods which will be used for bulk sample analysis in the interim period before the National Bureau of Standards (NBS) begins to operate its accreditation programs for labs that perform these analyses. Laboratories which perform bulk analysis in the interim period must use the "Interim Methods for the

Determination of Asbestos in Bulk Insulation Samples." This protocol was published in the 1982 Asbestos in Schools Rule (40 CFR Part 763, Subpart F) and was modified in 47 FR 38535, September 1, 1982. Laboratories performing TEM analysis must use Appendix A of Subpart F, and laboratories performing PCM analysis must use the EPA/OSHA Reference Method found in Appendix A of 40 CFR 763.121, the Asbestos Abatement Projects; Worker Protection rule.

Comments are requested on the following: Whether TEM should be added as an optional additional method for bulk analysis; whether a quality assurance sample should be required or suggested to allow for false positives in bulk sample analysis; and for PCM air analysis, should either the P & CAM 239 Method or NIOSH 7400 Method or both be allowed in addition to the EPA/OSHA Reference Method?

E. Assessment

The negotiating committee generally agreed that assessment, as provided in the proposed regulation, should be flexible enough to accommodate a wide variety of acceptable and available methods and schemes. Prior to passage of the TSCA Title II, the Agency began the development of a new guidance document on assessment which included a decision tree for selecting and ordering abatement activities. The decision tree was included in an initial draft regulation, but was dropped due to committee sentiment that it was inappropriate for the Agency to require a single assessment method. Assessment was perceived as the means of collecting and considering whatever data was necessary for the management planner to make an informed, responsible recommendation to the LEA consistent with response action requirements.

F. Management Plans

Section 203 of AHERA includes specific provisions regarding information to be included by LEAs in their management plans, and section 205 of AHERA provides a specific process for State review of management plans.

The language of the statute provided a detailed framework for the proposed rule. However, members of the negotiating committee added management plan provisions to the proposed rule to require that specific items of information be included in the plan for subjects not mentioned in the statute, ensure that the plan be available to interested parties at the administrative office of the LEA and the administrative office of the school, and enhance the use of the management plan as an enforcement tool.

EPA invites comment on the information required in the management plan under this proposed rule and is interested in whether other information is necessary.

Another issue discussed by the committee was the potential for conflicts of interest in the relationship among the management plan developer, inspector, the persons who design or conduct response actions and analytical laboratories. Certain members were concerned about the incentive to drive up LEA costs if the inspector, plan developer and abatement contractor had any financial relationship or all worked for the same firm. Other members felt that in areas of the nation where the supply of accredited persons might be limited, use of a single firm might be necessary. The committee chose not to address this in the proposed rule, but thought further public comment would be helpful.

G. Response Actions

The negotiating committee spent a great deal of time composing definitions of the various hazardous conditions established by TSCA Title II and considering ways to ensure appropriate response actions. EPA is directed by TSCA Title II to describe response actions "using the least burdensome methods which protect human health and the environment." This concept of "least burdensome methods. . . ." guided much of the committee's deliberations and is basic to understanding the proposed regulation's description of response actions. Although agreement was not reached on all points, EPA believes the proposed regulation as a whole will protect human health and the environment.

The proposed regulation is intended, whenever possible, to highlight factors which the LEA must consider to determine the proper asbestos control strategies, including timing, for appropriately and responsibly addressing asbestos hazards in schools, given local circumstances. EPA intends to produce guidance to further elaborate on factors which may be considered in selecting appropriate response actions.

A formal response action structure was not generally endorsed by the negotiating committee. Instead, the committee generally preferred to allow the LEA discretion within a range of acceptable response action alternatives, given the condition of the material, local circumstances, technological feasibility of response actions, economic considerations, and other relevant factors. Reliance is placed upon accredited experts to ensure that the LEA inspects properly for ACM in its buildings, develops and implements responsible management plans, and designs and conducts all abatement activity in an appropriate manner. No preference is suggested for any particular response action and LEAs may at any time decide to remove ACM if that is deemed appropriate.

The Agency's general position on asbestos in schools is that eventually it must be removed. That removal may occur immediately or may only be appropriate at a later time, such as when the asbestos becomes seriously damaged. Under the NESHAP, for actions such as major building renovation, it is required that if friable ACM is removed it must be done using specified work techniques. The demolition requirement of NESHAP requires removal of all affected friable ACM regardless of its condition prior to demolition. Therefore, the central issue is not whether ACM shall be removed, but rather, when. EPA, however, wishes to avoid unnecessary removal and does not wish to encourage schools to institute massive removal of asbestos that is in good condition before demolition. The EPA further recognizes that ill-conceived or poorly conducted removal activities often create hazards for workers and building occupants far greater than those associated with leaving ACM in place.

The remainder of this section deals with EPA's reasons for choosing the specific response action provisions in this proposed rule, discusses EPA's assessment of various technologies intended to improve the decisionmaking process regarding response actions and explains EPA's rationale for choosing operations and maintenance (O&M) provisions in the proposal.

1. Response Actions

For most of the hazard situations described in TSCA Title II, a step-wise ordering of considerations, based on using the "least burdensome methods. . . ." approach, is proposed. EPA believes that this step-wise procedure allows the LEA to consider the full range of options available. This step-wise order of considerations, however, should not be construed as limiting LEA choice for selecting removal as a response action, should removal be the preferred response action of the LEA. EPA's reasons for choosing the specific response action provisions in the proposed rule follow. Except for potential for damage and potential for significant damage, the

language in the provisions was not agreed on by the committee.

The proposed response action for damaged and significantly damaged thermal system insulation ACM would require that all damaged areas at least be repaired. If it is not feasible, due to technological factors or economic considerations, to repair these materials, they must be removed. EPA believes that this approach is consistent with previous guidance and recognizes that repair is often successful in containing fiber release from thermal system insulation ACM. Techniques for thermal system insulation ACM repair are well-developed and easily accomplished. Furthermore, the nature of the material makes it especially susceptible to repair with simple techniques.

Significantly damaged friable surfacing or miscellaneous ACM is defined as material in a functional space where the damage is extensive and severe. The response action for these materials involves the immediate isolation of the functional space, if necessary to protect human health and the environment, and the removal of the material in the space, unless enclosure or encapsulation are sufficient to contain fibers and are preferred by the LEA. The materials in this category demonstrate a relatively great potential for release of fibers. Therefore, a first consideration is given to isolating the area. It is presumed that, given levels of current technology and an assessment of long-term costs, response actions short of removal are on the average less likely to be viable options for long-term response actions in areas which fall within this category. Furthermore, improper or inappropriate repair of these types of materials may contribute to an increase in fiber levels. EPA believes that this response action scheme will allow LEAs and accredited experts to properly identify those functional spaces which may warrant restricted access and priority attention.

Response actions are also proposed for undamaged materials that have the potential for damage. Such material is not readily accessible and therefore is subject, in most instances, only to disturbance by O&M staff. Accordingly, the response action for ACBM that has potential for damage requires the LEA to at least establish an O&M program to avoid uncontrolled disturbance. Again, a school is not precluded from taking other response actions it deems appropriate in dealing with ACM with potential damage.

Accessibility is the key factor which distinguishes material with the potential for significant damage from material with the potential only for damage. Accessibility means that the material is subject to disturbance by school building occupants or workers in the course of their normal activities. For example, material within reach of students above an entrance is clearly accessible, as is thermal system insulation running along the base of a wall in a boiler room. Material on the ceiling of a school auditorium, beyond the reach of students, is not. ACBM on a high school gymnasium ceiling, which might be reached with basketballs or other objects, is subject to either classification, although an LEA might be well advised in this instance to implement a preventive measure to avoid disturbance.

The response action for ACBM that has potential for significant damage requires the LEA to implement an O&M plan and to institute preventive measures appropriate to eliminate the reasonable likelihood of damage. If these measures cannot be effectively implemented or unless other response actions are determined to be a preferred response, the material must be removed as soon as possible. EPA believes that this step-wise ordering of considerations for potential significantly damaged friable ACBM allows the LEA to select the least burdensome methods to minimize the likelihood of damage in the future. Preventive measures are generally expected to be the least burdensome methods, since undamaged material is less likely to release fibers. The potential for damage, however, may be so great in particular circumstances that removal may be indicated.

The response action for damaged friable surfacing or miscellaneous ACM directs the LEA to choose from among encapsulation, enclosure, removal, or repair of the damaged material, depending upon local circumstances, including occupancy and use patterns within the school and LEA economic concerns, including short- and long-term costs. Since the types of surfacing and miscellaneous materials vary, the EPA chose not to include a step-wise ordering of considerations or identify a single response approach for all types. EPA believes that determinations within this category are so circumstantial that recommendations for specific response actions are best offered on a case-by-case basis, relying upon the judgment of accredited experts. No abatement method is given first consideration.

Response actions other than small-scale, short-duration O&M activities shall be designed by persons accredited to design response actions under TSCA Title II, section 206. The Agency believes that project designs would benefit from model guide specifications, such as those prepared by the National Institute of Building Sciences (NIBS). NIBS' "Model Guide Specifications, Asbestos Abatement in Buildings," were published July 18, 1986, for use by the sectors of the building community engaged in asbestos abatement activities.

2. Assessment of Technologies to Improve Response Actions Decisions

TSCA Title II, section 203(c)(2) requires EPA to consider and assess the value of various technologies intended to improve the decision-making process regarding response actions and the quality of any work that is deemed necessary. This section discusses the committee's considerations in this area and EPA's evaluation of the committee's deliberations.

Consideration of transmission electron microscopy (TEM) and chemical encapsulants shows the committee's attempt to create flexibility for technical innovation in the field of asbestos abatement.

Use of TEM, an advanced technology that can be used for measuring levels of airborne asbestos fibers, has been generally endorsed by the committee in order to determine when an abatement project is completed. TEM is discussed in the section dealing with completion of response actions. Comment is welcome on this method, the proposed clearance standards, and protocol.

Another technology discussed in the negotiations was removal encapsulants, chemicals designed to ease the removal of ACM. While some of these encapsulants may not be effective, others may have some promise. EPA does not wish to stifle development of innovative technology and, thus, endorses the language in several places in the proposed regulation permitting the use of "wet methods" for cleaning and abatement activities. EPA is reviewing the removal encapsulant technology and is preparing a technical bulletin based on reports from a wide range of professional assessments about the efficacy of these products.

Air monitoring as a primary assessment technique for determining what response actions to take was not fully debated in committee discussions. Some groups have been advocating use of air monitoring for this purpose, although EPA has a long history of not recommending air monitoring and many other groups concur with EPA's recommendation. Comments by the Safe Building Alliance (SBA) in response to the Advance Notice of Proposed Rulemaking for this proposed rule promoted the use of air monitoring as an

assessment tool. However, SBA did not force the issue in negotiations. EPA believes that agreement could not have been reached on air monitoring issues had they been debated before the committee.

EPA has traditionally recommended assessment of asbestos in schools by visual evaluation of the material's condition, physical characteristics, and location. EPA continues to discourage the use of air monitoring for the primary assessment of exposure potential, since it only provides information on conditions during the period the air is sampled (usually a few hours) and cannot be used to assess the potential for damage or significant damage. When air monitoring costs and technical requirements are also considered, the Agency believes that assessment by physical characteristics is presently a more reasonable approach. However, EPA is conducting an air monitoring study which will, in part, compare assessment by physical characteristics and air monitoring techniques.

3. Operations and Maintenance

Under the proposal, an O&M program shall be established in a school building whenever any friable ACBM is present or assumed to be present. Friable ACBM includes thermal system insulation ACM or other ACBM which is damaged or about to become damaged, perhaps due to a maintenance activity such as cutting, drilling or sanding. The proposed regulation requires training for school workers, special cleaning provisions, including those for episodic releases and following planned maintenance projects which disturb ACM, and periodic surveillance of the materials as essential components of an O&M program.

The O&M worker training provision establishes topic and hourly requirements for this training, but allows the LEA discretion on how, where, when and by whom the instruction is provided. EPA believes that it is reasonable, given the short time frames to accomplish the training and the limited availability of present training, to allow the LEAs flexibility in the manner in which this training is provided to O&M workers.

Some committee members suggested, as an alternative to a set 16-hour training requirement for maintenance staff who may disturb asbestos, a more flexible training approach (perhaps involving fewer hours) tailored to the activities within a particular school or LEA. Under this approach, for example, hands-on training in glove bags would not be required if the LEA or the school in which the employee works has no thermal system insulation ACM. Other members preferred accreditation of O&M workers who perform small-scale, short-duration projects. EPA is interested in comments on these approaches.

The proposed regulation contains provisions for initial and episodic cleaning (associated with minor fiber release episodes), but no explicit requirement for routine cleaning. The committee was not able to agree on all cleaning requirements. As the Agency's Purple Book indicates, wet cleaning practices are a central part of a responsible O&M asbestos control program. As a prudent measure, monthly wet cleaning is recommended for areas where friable surfacing ACM is present, and semi-annual wet cleaning is suggested in areas with damaged thermal system insulation ACM.

EPA continues to recommend wet cleaning as a means of cleaning up asbestos fibers previously released and encourages LEAs, whenever they clean, to adopt wet methods in those areas which contain friable ACBM. However, it is possible that improper cleaning on a routine basis may actually increase fiber levels in the air. EPA is interested in comments on routine cleaning.

The negotiating committee generally adopted, in Appendix B for the purposes of this proposed rule, the basic OSHA approach to deal with small-scale, short-duration projects. But many members desired to further clarify the OSHA definition of small-scale, short-duration projects by adding five clarifications, added to Appendix B, as to the scope of these projects. EPA believes that these considerations are generally consistent with OSHA intent, although it is possible that some points alter, rather than merely clarify, the definition. Comments on this modified definition are invited.

Discussion also focused on the point (level of O&M activity) at which accreditation should be required for maintenance project design and O&M workers. In the proposed regulation, accreditation is necessary for all project designers and maintenance workers employed in activities greater than small-scale, short-duration projects. (Schools, of course, may have in-house architects, engineers, or other professionals accredited as project designers and O&M workers accredited to perform such abatement jobs.) EPA is interested in comments on the appropriateness of this requirement.

Fiber release episodes are uncontrolled or unintentional disturbances of ACBM resulting in visible emission which may pose a hazard to building occupants. EPA believes that episodes involving 3 or less square or linear feet of ACBM can be contained and cleaned up by properly trained and equipped O&M staff. For larger fiber release episodes, accredited personnel are required to respond.

H. Completion of Response Actions

In considering the provisions of this section, the negotiating committee first discussed whether or not to require TEM as the only permissible method of analysis for clearance air measurement following a response action. The PCM method is nonspecific for asbestos and it cannot detect the small thin fibers found at abatement sites. EPA research data has shown the PCM is often inadequate for post abatement monitoring of airborne asbestos. These data indicate that sites which were shown to be clean with PCM data were found by TEM data to be still contaminated. Therefore, reoccupancy of sites initially cleared by PCM, and thus, assumed to have been adequately cleaned, may in fact result in high exposures to asbestos. Although present data would indicate that TEM is a clearly superior monitoring method for purposes of this rule, the committee recognized the relative difficulty in finding laboratories which can perform TEM analysis in a timely manner.

Committee members generally agreed that the number of facilities providing TEM analysis of asbestos air samples will increase as a result of the requirements of this regulation, and that turn-around time and price will drop as more instruments become available. The phase-in of TEM was intended to provide a period for laboratories to react to the increased demand for electron microscopes. However, comments are requested on the extent to which practical problems of availability, response time and cost of TEM analysis exist and whether these problems warrant the use of the phase-in period in the proposal during which PCM analysis would be allowed. EPA is concerned that some research data has shown that PCM can be inadequate for post abatement monitoring of airborne asbestos.

The committee also considered whether the artificial separation of one large response action into several small ones in order to qualify for the TEM phase-in should be prohibited. Among the options discussed was a requirement that all projects completed during a given time period such as 4 months be added together to determine qualification for the use of PCM. Another option discussed was a

requirement that all buildings for a given school be added together. The committee generally agreed to require addition of all contiguous portions of a project conducted in the same building to determine whether the project could be cleared with PCM analysis.

Concern was expressed by the committee about the timing of clearance sampling requirements. The TEM protocol in Appendix A reflects general work group agreement that measurements be made after the primary containment barrier is taken down and after the secondary barrier is either wet-wiped or HEPA-vacuumed.

The committee generally agreed that aggressive sampling should be required and should be defined in the TEM protocol. This section of the regulation requires the use of aggressive sampling for both TEM and PCM measurements, and proposed Appendix A defines a method for aggressive sampling similar to that used in several EPA guidance documents.

The committee considered several options under which less stringent clearance procedures would be allowed following removal, encapsulation, and enclosure. One of these options was to allow response actions to be considered complete with only visual inspection when the project was below the point at which the NESHAP provisions concerning asbestos demolition and renovation apply—160 square feet or 260 linear feet. Another option which the committee considered was to permit an accredited abatement designer discretion on whether or not to require air sampling. The general agreement was to allow the LEA discretion to use PCM measurement on these small jobs rather than to require TEM for small jobs.

Consideration was also given by the committee on a requirement for air sampling for clearance after small jobs of short duration. The committee generally agreed to allow these jobs, which often involve a foot or less of ACBM, to be considered complete after they have passed a careful visual inspection.

I. Accreditation

Appendix C, appearing in a notice elsewhere in this edition of the **Federal Register**, includes the final Model Contractor Accreditation Plan for States required by TSCA Title II. As the negotiating committee developed its approach to the inspection, assessment, and response action sections of the proposed rule which provide flexibility based on professional judgment and local circumstances, the committee generally agreed that stringent accreditation requirements were crucial to successful implementation of TSCA Title II. The committee established a work group which met several times to discuss accreditation matters. The committee agreed in principle on an accreditation framework and delegated the development of exact wording to the Agency. The EPA Model Plan is the only part of this regulation which is a final Agency product.

J. Worker and Occupant Protection

The regulation, through the provisions of the EPA worker protection rule, extends coverage already in place for O&M workers in private schools under the OSHA's construction standard to public sector O&M workers now unprotected in schools. It also allows LEAs, when they conduct small-scale, short-duration projects (all of which are presumed to exceed the action level of 0.1 f/cm^3), to implement the provisions of Appendix B of this rule instead of the full scope of the EPA worker protection regulation.

Some committee members, particularly the union representatives, desired greater personal protection measures than this coverage afforded. In particular, strong preference was expressed to require respirators whenever ACBM is likely to be disturbed, even if the fiber level is expected to be below the 0.1 f/cm^3 action level established by OSHA. The issue was particularly contentious. Some committee members expressed the opinion that coverage should be consistent for public workers (covered by EPA regulations) and for private workers (covered by OSHA regulations) in schools. Others indicated that risks at such low levels would not warrant the use of respirators. EPA's opinion is that OSHA recently completed a lengthy and detailed worker protection rulemaking proceeding to develop the action level and EPA does not intend to reassess the OSHA determination regarding worker protection. EPA is, however, committed to changing the provisions of the worker protection rule (and hence, this regulation) to conform with any modifications adopted by OSHA in the area of worker protection that may result from the litigation on OSHA's rule. In addition, the Committee agreed that information on respiratory protection, as contained in "A Guide to Respiratory Protection for the Asbestos Abatement Industry" (White Book) September 1986, published jointly by EPA and National Institute for Occupational Safety and Health (NIOSH), should be made available to workers during their O&M training.

Some committee members argued for a regulatory provision on an employee's right to refuse work, if certain personal protective measures are not taken, training is not afforded, or if the proposed regulation is otherwise violated. EPA believes that this issue is more properly addressed by the Department of Labor, but the Agency is interested in comments on this issue.

Proposed § 763.91(e) would establish procedures to protect building occupants from any O&M activity which disturbs asbestos. These procedures largely involve isolation, scheduling, good work practices, proper cleaning and asbestos debris disposal. Generally, these procedures represent simple, low-cost activities which will help contain fibers and control asbestos debris created by the disturbance. For custodial or maintenance activities which do not disturb asbestos these precautions are not required.

Finally, labelling procedures, in committee deliberations, were primarily intended to prevent unknowing or uncontrolled disturbance to ACBM by maintenance personnel rather than to identify ACBM for building occupants. The Agency is seeking comments on whether labels should be provided in languages other than English and on alternative labelling systems for use in routine maintenance areas.

K. Waiver for State Programs

The negotiating committee's general approach in developing the State waiver section of the proposed rule was to provide States with a clear and structured process for requesting waivers. The process set forth in the proposed rule requires that States submit specific information about their programs to EPA so that the Agency can make an informed decision about whether to grant or deny a waiver request. The committee attempted to strike a balance between providing EPA with adequate information for this purpose without making the waiver request unduly burdensome on the States.

Much of the discussion of State waivers pertained to time periods allowed for various steps in the waiver process. EPA is interested in receiving comments about the deadlines and time intervals set forth in this section of the proposed rule.

EPA is also interested in comments about the requirements to hold a public hearing in a State upon request. Specifically, what types of concerns or issues warrant a public hearing on a State waiver request?

There was also significant discussion about coverage of both public and private schools in State asbestos inspection or management programs for which a waiver is sought. While the committee stopped short of specifying private school coverage as a criteria for granting a waiver, support was expressed for the concept that States which already have programs that cover only public schools should consider expanding their program to include private schools.

IV. EPA's Decision To Use the Results of the Negotiated Rulemaking Process

EPA's own analysis indicates that it should use the results of this negotiated rulemaking process as the basis for its proposed rules under Title II of TSCA. The Agency has preliminarily decided, based on the rationale stated below, that the proposed rule represents a reasonable way of carrying out its statutory responsibilities. EPA believes that the proposed rule would result in the use of the least burdensome methods which protect public health or the environment from the risks of asbestos in school buildings.

EPA decided not to set levels in this rulemaking related to the health effects of asbestos. While the Agency's position regarding the health effects of asbestos has been stated publicly on a number of occasions (51 FR 15722, April 25, 1986, and 51 FR 3738, January 29, 1986) that position is by no means without controversy and the various parties to this negotiation espouse a wide range of opinions. No accommodation could have been reached on this rule with respect to health effects. Some parties to the negotiation would argue that the risks from asbestos in buildings in many situations is zero or de minimus, while others may advocate that any exposure to asbestos presents an unacceptable risk that must be eliminated regardless of cost. EPA has considered the range of opinion regarding asbestos health effects and has decided that for purposes of this proposed rule it is not necessary to resolve this divergence.

The Agency has in its rulemaking record an analysis of risk, using reasonably conservative assumptions, that shows statistical risks could be considerable if the appropriate measures required by this proposed regulation are not implemented, and that a significant number of statistical cases of disease could be avoided if the measures are implemented. This analysis has been used by EPA only to indicate that asbestos in schools could present a risk of concern and that measures proposed in this rule are necessary to protect public health or the environment. The Agency acknowledges, however, that some parties to this negotiating process may advocate more protective measures and that other parties may advocate less protective measures depending upon their views on the health effects of low level exposure to asbestos.

Regardless of EPA's decision not to set regulatory levels, the Agency has chosen the provisions of the proposed rule based on a determination that the cost of this rule is reasonable, and, thus, represents the least burdensome requirements necessary to protect public health and the environment. All public and private schools will experience the cost of inspecting which, as discussed later in this preamble, will not exceed a few hundred dollars per school. Many schools, finding no asbestos, will experience no further costs. Most of the remaining schools that find ACM are expected to implement operations and maintenance programs along with periodic surveillance and reinspection. The operations and maintenance program is expected to average approximately $6,000 per school per year, a cost which is clearly minimal if there is a possibility that adverse health effects may be avoided. The reasonableness of the costs of all other response actions is ensured by the decisionmaking process provided in the rule. This process is based on the responsibility of local officials, with input from the local community, to make the appropriate decisions. The LEAs, with the help of specially-trained experts, are to develop management plans to implement the appropriate measures and are required to consider economic factors as appropriate. This proposed rule relies heavily upon the use of trained experts. By requiring that the management plans are publicly available, the proposed rule would ensure public input as a check on the reasonableness of the LEA's decision.

It is especially important to note that the negotiating committee generally agreed that LEAs should have discretion to make the appropriate decisions using trained experts with the procedural safeguards provided by publicly available management plans. While there was disagreement on how to implement all provisions of the regulations, EPA regards these differences as all within a general zone of reasonableness that may be appropriate for regulation. The proposed rule is also within that zone of reasonableness.

Finally, in choosing the provisions of the proposed rule, EPA believes that the interests of public health have been served by reaching a reasonable accommodation among the interests and the views of the negotiating parties. No party achieved all the goals it would have liked, but each party gained substantial concessions. Much of the agreement in the negotiating sessions resulted because parties did not insist that the committee adopt their own positions on the most contentious issues, such as those involving health effects of asbestos at exposure levels found in schools, use of air monitoring as a tool to determine what response actions are appropriate, and use of respirators regardless of the level of exposure to asbestos. In EPA's experience in other regulations, contentious issues like these are only resolved after long regulatory and judicial proceedings. EPA may develop a final rule after a protracted rulemaking proceeding that tries to resolve such issues but displeases any number of interested parties ranging from one of the parties to all of them. The issues then become the subject of judicial challenge on the final rule and may only be resolved after long years of judicial proceedings during which parties to the litigation may eventually be forced by circumstances, or the courts, to negotiate anyway. By moving the negotiations to the beginning of the process, EPA has hoped that it may avoid the long delays inherent in the normal process. The Agency hopes the parties to this negotiating proceeding reach the same conclusion and support this proposed rule and any substantially similar final rule.

V. Economic Impact

The economic impact analysis estimates the incremental costs attributable to the proposed regulation, including costs of inspection, sampling, development and management plans, implementation of response actions, periodic surveillance, and provision of required training. Estimates of the number of schools affected and square footage of asbestos were developed based on the 1984 EPA survey of asbestos in schools and data compiled from the Asbestos School Hazard Abatement Act (ASHAA) loan and grant program. Estimates of the percentage of asbestos which falls into each of the hazard categories were based on the results of a survey of the EPA's Regional Asbestos Coordinators (RACs). Using a model school/model project approach, costs of inspection, sampling, and appropriate response actions were developed for schools with ACM in each of the different hazard categories. For schools with only non-friable ACM the only costs estimated

were for management plan development, training of the asbestos program manager, and custodial training for proper repair and maintenance of ACM. For purposes of the economic analysis, we assumed that all schools with only nonfriable ACM would choose to forego sampling and instead just treat suspect material as asbestos-containing.

Asbestos abatement-related costs expected to be incurred regardless of the existence of these regulations were subtracted from the total costs to calculate only the incremental cost of the proposed regulation. For example, data from the Asbestos School Hazard Abatement Act (ASHAA) loan and grant application data base were used to project an average annual rate of removal of asbestos that is assumed would have occurred even if TSCA Title II legislation and these regulations were not promulgated. That average annual rate was estimated to be approximately 3.4 percent for primary schools, 3.3 percent for secondary schools, and 1.8 percent for private schools. The costs associated with this underlying rate of removal were subtracted from the total costs. Also, the costs of removal of friable ACM prior to demolition that is required by the NESHAPs regulations were also netted out of the total costs.

The estimated net present value of the costs of these proposed regulations is approximately $3,219 million (using a 10 percent discount rate) over 30 years. This includes the cost of initial inspection and sampling—$58.2 million; development and implementation of management plans—$970.8 million; periodic surveillance—$41.8 million; reinspection—$34.7 million; special operations and maintenance programs—$525.4 million; and abatement response actions $1,587.8 million.

The total number of primary and secondary schools potentially affected by these regulations is estimated to be 107,550. Approximately 44,900 are estimated to have approximately 213 million square feet of surfacing or thermal system insulation ACM. Of these an estimated 10,700 schools have surfacing ACM only. It is likely that every school contains some amount of non-friable ACM such as floor tile, transite board, and fire doors.

The cost of an asbestos inspection is estimated to range from $60 to $290 per school depending upon the size of the school and type of professional doing the work. The costs of sampling and analysis if friable materials are found will depend upon the number of samples taken and analyzed. Costs of analysis are estimated to range from $25 to $47 per sample. Assuming the average school has to analyze 20 samples, the cost of analysis will be $500 to $940 per school. The cost of mapping ACM is estimated to range from $60 to $260 per school.

The cost of developing a management plan if asbestos-surfacing ACM or thermal system insulation ACM is present is estimated to range from $320 for an average-size public primary school for $480 for an average-size public secondary school if the plan is prepared in-house. A much less extensive management plan would be required for schools containing only non-friable materials. The average development cost for a management plan where only non-friable materials are present is estimated to be $200.

The estimated cost of training required by the proposed regulations is approximately $50 per person for a 2-hour awareness training session for all school maintenance employees in schools with surfacing ACM and thermal system insulation ACM, $250 for the additional 14 hours of training for workers who may come in contact with asbestos in doing minor repair and maintenance work in which asbestos is disturbed, and $420 for the 24 hours of training required for certification of asbestos abatement workers doing more than just minor repair and small glove-bag jobs. The cost of the 40-hour training course and certification required for asbestos abatement contractors is estimated to be $640.

Response action costs depend on the condition of the asbestos in a school. For surfacing material in all but the significantly damaged category, it is likely that the primary response action undertaken by a school will be special operations and maintenance activities until or unless the ACBM deteriorates to a "significantly damaged" condition. The annual cost of a special operations and maintenance program (excluding acquisition of special equipment) is estimated to range from $4,200 for a typical private school to $8,300 for a typical public secondary school. Initial cleaning costs are expected to range from $900 to $1,700.

The cost of removal depends upon many factors including size of the project. The estimated cost of removal for a 4,000 square foot project in which surfacing material is removed would be approximately $51,000. The cost of removal for a 900 square linear foot boiler wrap project is estimated to be approximately $31,000. The total discounted costs of response actions were estimated assuming schools undertake a combination of response actions which depend on the condition of the ACM.

VI. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–62048C). The record is available in the Office of Toxic Substances Public Information Office, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The Public Information Office is located in Rm. NE–G004, 401 M Street, SW., Washington, DC.

The record includes information considered by EPA in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following categories of information:

1. Federal Register notices.
2. Support documents.
3. Reports.
4. Memoranda and letters.
5. Records of the negotiating committee.

EPA will identify the complete rulemaking record by date of promulgation. EPA will accept additional material for inclusion in the record at any time between this document and designation of the complete record. The final rule will also permit persons to point out any errors or omissions in the record.

VII. References

1. USEPA. "Guidance for Controlling Asbestos-Containing Materials in Buildings," EPA 560/5–85–024, June 1985.

2. USEPA. "A Guide to Respiratory Protection for the Asbestos Abatement Industry." EPA 560–OPTS–86–001, September 1986.

3. USEPA. "Asbestos in Buildings: Simplified Sampling Scheme for Friable Surfacing Materials," EPA 560/5–85–030a. October 1985.

4. USEPA. Friable Asbestos-Containing Materials in Schools, 40 CFR Part 763, Subpart F.

5. USEPA. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, Subpart M.

6. USDOL. OSHA. Occupational Exposure to Asbestos, 29 CFR 1926.58.

7. USEPA. Toxic Substances; Asbestos Abatement Projects, 40 CFR Part 763, Subpart G.

VIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA has determined that this proposed rule is a "Major Rule" and has developed a Regulatory Impact Analysis. EPA has prepared an economic impact analysis of the proposed TSCA Title II regulations.

B. Regulatory Flexibility Act

EPA has analyzed the economic impact of this rule on small businesses. EPA's analysis of the economic consequences of this proposed rule appears in Unit V.

C. Paperwork Reduction Act

The reporting and recordkeeping provisions in this proposed rule have been submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs at OMB and marked Attention: Desk Officer for EPA. The final rule will explain EPA's response to OMB and public comments on the proposed reporting and recordkeeping requirements.

List of Subjects in 40 CFR Part 763

Asbestos, Environmental protection, Occupational health and safety Hazardous substances, Recordkeeping, Schools.

Dated: April 20, 1987.

Lee M. Thomas,

Administrator.

PART 763—[AMENDED]

Therefore, it is proposed that 40 CFR Part 763 be amended as follows:

1. The authority citation for Part 763 continues to read as follows:

Authority: 15 U.S.C. 2605 and 2607(c). Subpart E also issued under 15 U.S.C. 2641, 2643, 2646, and 2647.

2. Subpart E is amended by adding §§ 763.80 through 763.99 and Appendices A and B to read as follows:

Subpart E—Asbestos-Containing Materials in Schools

Sec.

763.80 Scope and purpose
763.81 Definitions
763.83 General local education agency responsibilities
763.85 Inspection and reinspections
763.86 Sampling
763.87 Analysis
763.88 Assessment
763.90 Response actions
763.91 Operations and maintenance
763.93 Management plans
763.94 Recordkeeping
763.95 Warning labels
763.97 Compliance and enforcement
763.98 Waiver; delegation to State
763.99 Exclusions

Appendix A to Subpart E—Interim Transmission Electron Microscopy Analytical Method and Field Sampling Protocol for the Clearance Testing of an Abatement Site

Appendix B to Subpart E—Work Practices and Engineering Controls for Small-Scale, Short-Duration Asbestos Operations, Maintenance and Repair (O&M) Activities Involving ACM

Subpart E—Asbestos—Containing Materials in Schools

* * * * *

§ 763.80 Scope and purpose.

This rule requires local education agencies to identify friable and non-friable asbestos-containing material (ACM) in public and private elementary and secondary schools by visually inspecting school buildings for such materials, sampling such materials if they are not assumed to be ACM, and having samples analyzed by appropriate techniques referred to in this rule. The rule requires local education agencies to submit management plans to the Governor of their State by October 12, 1988, begin to implement the plans by July 9, 1989, and complete implementation of the plans in a timely fashion. In addition, local education agencies are required to use persons who have been accredited to conduct inspections, reinspections, develop management plans, or perform response actions. The rule also includes recordkeeping requirements. The transportation of asbestos waste generated by the activities of this rule is covered by the Department of Transportation and disposal requirements are covered by the National Emission Standard for Hazardous Air Pollutants (NESHAP). Local education agencies may contractually delegate their duties under this rule, but they remain responsible for the proper performance of those duties. Local education agencies are encouraged to consult with EPA Regional Asbestos Coordinators, or if applicable, a State's lead agency designated by the State Governor, for assistance in complying with this rule.

§ 763.81 Definitions.

For purposes of this subpart:

"Act" means the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601, *et seq.*

"Accessible" when referring to ACM means that the material is subject to disturbance by school building occupants or custodial or maintenance personnel in the course of their normal activities.

"Accredited" or "accreditation" when referring to a person or laboratory means that such person or laboratory is accredited in accordance with section 206 of Title II of the Act.

"Asbestos" means the asbestiform varieties of: Chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite- grunerite); anthophyllite; tremolite; and actinolite.

"Asbestos-containing building material" (ACBM) means surfacing ACM, thermal system insulation ACM, or miscellaneous ACM that is found in or on interior structural members or other parts of a school building.

"Asbestos-containing material" (ACM) when referring to school buildings means any material or product which contains more than 1 percent asbestos.

"Asbestos debris" means pieces of ACBM that can be identified by color, texture, or fiber content as originating from adjacent ACBM.

"Damaged friable miscellaneous ACM" means friable miscellaneous ACM which has deteriorated or sustained physical injury such that the internal structure (cohesion) of the material is inadequate or, if applicable, which has delaminated such that its bond to the substrate (adhesion) is inadequate or which for any other reason lacks fiber cohesion or adhesion qualities.

"Damaged friable surfacing ACM" means friable surfacing ACM which has deteriorated or sustained physical injury such that the internal structure (cohesion) of the material is inadequate or which has delaminated such that its bond to the substrate (adhesion) is inadequate, or which, for any other reason, lacks fiber cohesion or adhesion qualities.

"Damaged or significantly damaged thermal system insulation ACM" means thermal system insulation ACM on pipes, boilers, tanks, ducts, and other thermal system insulation equipment where the insulation has lost its structural integrity, or its covering, in whole or in part, is crushed, water-stained, gouged, punctured, missing, or not intact such that it is not able to contain fibers.

"Encapsulation" means the treatment of ACBM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Enclosure" means the construction of an airtight, impermeable, permanent barrier around ACBM to control the release of asbestos fibers into the air.

"Fiber release episode" means any uncontrolled or unintentional disturbance of ACBM resulting in visible emission.

"Friable" when referring to material in a school building means that the material, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure, and includes previously non-friable material after such previously non-friable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

"Functional space" means a room, group of rooms, or homogeneous area (including the space between a dropped ceiling and the floor or roof deck above), such as classroom(s), a cafeteria, gymnasium, hallway(s), designated by a person accredited to prepare management plans, design abatement projects, or conduct response actions.

"High-efficiency particulate air" (HEPA) refers to a filtering system capable of trapping and retaining at least 99.97 percent of all monodispersed particles 0.3 micrometers in diameter or larger.

"Homogeneous area" means an area of surfacing material, thermal system insulation material, or miscellaneous material that is uniform in color and texture.

"Local education agency" means:

(1) Any local educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381).

(2) The owner of any nonpublic, nonprofit elementary or secondary school building, and

(3) The governing authority of any school operated under the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921, *et seq.*).

"Miscellaneous ACM" means miscellaneous material that is ACM in a school building.

"Miscellaneous material" means interior building material on structural components, structural members or fixtures, such as floor and ceiling tiles, and does not include surfacing material or thermal system insulation.

"Non-friable" means material in a school building which when dry may not be crumbled, pulverized, or reduced to powder by hand pressure.

"Operations and maintenance program" means a program of training, work practices, and periodic surveillance to maintain friable ACBM in good condition, ensure clean up of asbestos fibers previously released, and prevent further release by minimizing and controlling friable ACBM disturbance or damage.

"Potential damage" means circumstances in which:

(1) Friable ACBM is in an area regularly used by building occupants, including maintenance personnel, in the course of their normal activities, and

(2) There are indications that there is a reasonable likelihood that the material or its covering will become damaged, deteriorated, or delaminated due to factors such as changes in building use, changes in operations and maintenance practices, changes in occupancy, or recurrent damage.

"Potential significant damage" means circumstances in which:

(1) Friable ACBM is in an area regularly used by building occupants, including maintenance personnel, in the course of their normal activities.

(2) There are indications that there is a reasonable likelihood that the material or its covering will become significantly damaged, deteriorated, or delaminated due to factors such as changes in building use, changes in operations and maintenance practices, changes in occupancy, or recurrent damage, and

(3) The material is subject to major or continuing disturbance, due to factors including, but not limited to, accessibility.

"Preventive measures" means actions taken to reduce disturbance of ACBM or otherwise eliminate the reasonable likelihood of the material's becoming damaged or significantly damaged.

"Removal" means the taking out or the stripping of substantially all ACBM from a damaged area, a functional space, or a homogeneous area in a school building.

"Repair" means returning damaged ACBM to an undamaged condition or to an intact state so as to contain fiber release.

"Response action" means a method, including removal, encapsulation, enclosure, repair, operations and maintenance, that protects human health and the environment from friable ACBM.

"Routine maintenance area" means an area, such as a boiler room or mechanical room, that is not normally frequented by students and in which maintenance employees or contract workers regularly conduct maintenance activities.

"School" means any elementary or secondary school as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854).

"School building" means:

(1) Any structure suitable for use as a classroom, including a school facility such as a laboratory, library, school eating facility, or facility used for the preparation of food.

(2) Any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education.

(3) Any other facility used for the instruction or housing of students or for the administration of educational or research programs.

(4) Any maintenance, storage, or utility facility, including any hallway, essential to the operation of any facility described in this definition under paragraphs (1), (2), or (3) of this definition.

(5) Any portico or covered exterior hallway or walkway, and

(6) Any exterior portion of a mechanical system used to condition interior space.

"Significantly damaged friable miscellaneous ACM" means damaged friable miscellaneous ACM where the damage is extensive and severe.

"Significantly damaged friable surfacing ACM" means damaged friable surfacing ACM in a functional space where the damage is extensive and severe.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Marianas, the Trust Territory of the Pacific Islands, and the Virgin Islands.

"Structural member" means any load-supporting member of a school building, such as beams and load-supporting walls, or any non-load-supporting member, such as ceilings and non-load-supporting walls.

"Surfacing ACM" means surfacing material that is ACM.

"Surfacing material" means material in a school building that is sprayed-on, troweled-on, or otherwise applied to surfaces, such as acoustical plaster on ceilings and fireproofing materials on structural members, or other materials on surfaces for acoustical, fireproofing, or other purposes.

"Thermal system insulation" means material in a school building applied to pipes, fittings, boilers, breeching, tanks, ducts, or other interior structural components to prevent heat loss or gain, or water condensation, or for other purposes.

"Thermal system insulation ACM" means thermal system insulation that is ACM.

§ 763.83 General local education agency responsibilities.

Each local education agency shall:

(a) Ensure that the activities of any persons who perform inspections,

reinspections, and periodic surveillance, develop and update management plans, and develop and implement response actions, including operations and maintenance, are carried out in accordance with Subpart E of this part.

(b) Ensure that all custodial and maintenance employees are properly trained as required by this Subpart E and other applicable Federal and/or State regulations (i.e., the Occupational Safety and Health Administration asbestos standard for construction, the EPA worker protection rule, or applicable State regulations).

(c) Ensure that workers and building occupants, or their legal guardians, are informed at least once each school year about inspections, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress.

(d) Ensure that short-term workers (e.g., telephone repair workers, utility workers, exterminators) who may come in contact with asbestos in a school are provided information regarding the locations of ACBM and suspected ACBM assumed to be ACM and are instructed in safe work practices regarding such material.

(e) Ensure that warning labels are posted in accordance with § 763.95.

(f) Ensure that management plans are available for inspection and that parent, teacher, and employee organizations are notified of such availability as specified in the management plan under § 763.93.

(g)(1) Designate a person to ensure that requirements under this section are properly implemented.

(2) Ensure that the designated person receives adequate training to perform duties assigned under this section. Such training shall provide, as necessary, basic knowledge of:

(i) Health effects of asbestos.

(ii) Detection, identification, and assessment of ACM.

(iii) Options for controlling ACBM.

(iv) Asbestos management programs.

(v) Relevant Federal and State regulations concerning asbestos, including those in this Subpart E and those of the Occupational Safety and Health Administration, U.S. Department of Labor, the U.S. Department of Transportation and the U.S. Environmental Protection Agency.

§ 763.85 Inspection and reinspections.

(a) *Inspection.* (1) Except as provided in paragraph (a)(2) of this section, before October 12, 1988, local education agencies shall inspect each school building that they lease, own, or otherwise use as a school building to identify all locations of friable and non-friable ACBM.

(2) Any building leased or acquired on or after October 12, 1988, that is to be used as a school building shall be inspected as described under paragraphs (a) (3) through (5) of this section prior to use as a school building. In the event that emergency use of an uninspected building as a school building is necessitated, such buildings shall be inspected within 30 days after commencement of such use.

(3) Each inspection shall be made by an accredited inspector.

(4) For each area of a school building, except as excluded under § 763.99, each person performing an inspection shall:

(i) Visually inspect the area to identify the locations of all suspected ACBM.

(ii) Touch all suspected ACBM to determine whether they are friable.

(iii) Identify all homogeneous areas of friable suspected ACBM and all homogeneous areas of non-friable suspected ACBM.

(iv) Assume that some or all of the homogeneous areas are ACM, and, for each homogeneous area that is not assumed to be ACM, collect and submit for analysis bulk samples under §§ 763.86 and 763.87.

(v) Assess, under § 763.88, friable material in areas where samples are collected, friable material in areas that are assumed to be ACBM, and friable ACBM identified during a previous inspection.

(vi) Record the following and submit to the person designated under § 763.83 a copy of such record for inclusion in the management plan within 30 days of the inspection:

(A) An inspection report with the date of the inspection signed by each accredited person making the inspection, State of accreditation, and if applicable, his or her accreditation number.

(B) An inventory of the locations of the homogeneous areas where samples are collected, exact location where each bulk sample is collected, dates that samples are collected, homogeneous areas where friable suspected ACBM is assumed to be ACM, and homogeneous areas where non-friable suspected ACBM is assumed to be ACM.

(C) A description of the manner used to determine sampling locations, the name and signature of each accredited inspector who collected the samples, State of accreditation, and, if applicable, his or her accreditation number.

(D) A list of whether the homogeneous areas identified under paragraph (a)(4)(vi)(B) of this section are surfacing material, thermal system insulation, or miscellaneous material.

(E) Assessments made of friable material, the name and signature of each accredited inspector making the assessment, State of accreditation, and if applicable, his or her accreditation number.

(b) *Reinspection.* (1) At least once every 3 years after a management plan is in effect, each local education agency shall conduct a reinspection of all friable and non-friable known or assumed ACBM in each school building that they lease, own, or otherwise use as a school building.

(2) Each inspection shall be made by an accredited inspector.

(3) For each area of a school building, each person performing a reinspection shall:

(i) Visually reinspect, and reassess, under § 763.88, the condition of all friable known or assumed ACBM.

(ii) Visually inspect material that was previously considered non-friable ACBM and touch the material to determine whether it has become friable since the last inspection or reinspection.

(iii) Identify any homogeneous areas with material that has become friable since the last inspection or reinspection.

(iv) For each homogeneous area of newly friable material that is already assumed to be ACBM, bulk samples may be collected and submitted for analysis in accordance with §§ 763.86 and 763.87.

(v) Assess, under § 763.88, the condition of the newly friable material in areas where samples are collected, and newly friable materials in areas that are assumed to be ACBM.

(vi) Reassess, under § 763.88, the condition of friable known or assumed ACBM previously identified.

(vii) Record the following and submit to the person designated under § 763.83 a copy of such record for inclusion in the management plan within 30 days of the reinspection:

(A) The date of the reinspection, the name and signature of the person making the reinspection, State of accreditation, and if applicable, his or her accreditation number, and any changes in the condition of known or assumed ACBM.

(B) The exact locations where samples are collected during the reinspection, a description of the manner used to determine sampling locations, the name and signature of each accredited inspector who collected the samples, State of accreditation, and, if applicable, his or her accreditation number.

(C) Any assessments or reassessments made of friable material, the name and signature of the accredited inspector making the assessments, State

of accreditation, and if applicable, his or her accreditation number.

(c) *General.* Thermal system insulation that has retained its structural integrity and that has an undamaged protective jacket or wrap that prevents fiber release shall be deemed as non-friable and therefore is subject only to periodic surveillance and preventive measures as necessary.

§ 763.86 Sampling.

(a) *Surfacing material.* An accredited inspector shall collect, in a statistically random manner that is representative of the homogeneous area, bulk samples from each homogeneous area of friable surfacing material that is not assumed to be ACM, and shall collect the samples as follows:

(1) At least three bulk samples shall be collected from each homogeneous area that is 1,000 square feet or less, except as provided in § 763.87(c)(2).

(2) At least five bulk samples shall be collected from each homogeneous area that is greater than 1,000 square feet but less than or equal to 5,000 square feet, except as provided in § 763.87(c)(2).

(3) At least seven bulk samples shall be collected from each homogeneous area that is greater than 5,000 square feet, except as provided in § 763.87(c)(2).

(b) *Thermal system insulation.* (1) Except as provided in paragraphs (b)(2) through (4) of this section and § 763.87(c), an accredited inspector shall collect, in a randomly distributed manner, at least three bulk samples from each homogeneous area of thermal system insulation that is damaged or significantly damaged and is not assumed to be ACM.

(2) Collect at least one bulk sample from each homogeneous area of patched thermal system insulation that is not assumed to be ACM if the patched section is less than 6 linear or square feet.

(3) In a manner sufficient to determine whether the material is ACM or not ACM, collect bulk samples from each insulated mechanical system that is not assumed to be ACM where cement is used on tees, elbows, or valves, except as provided under § 763.87(c)(2).

(4) Bulk samples are not required to be collected from any homogeneous area where the accredited inspector has determined that the thermal system insulation is fiberglass, foam glass, rubber, or other non-ACBM.

(c) *Miscellaneous material.* In a manner sufficient to determine whether material is ACM or not ACM, an accredited inspector shall collect bulk samples from each homogeneous area of friable miscellaneous material that is not assumed to be ACM.

(d) *Non-friable suspected ACBM.* If any homogeneous area of non-friable suspected ACBM is not assumed to be ACM, then an accredited inspector shall collect, in a manner sufficient to determine whether the material is ACM or not ACM, bulk samples from the homogeneous area of non-friable suspected ACBM that is not assumed to be ACM.

§ 763.87 Analysis.

(a) Local education agencies shall have bulk samples, collected under § 763.86 and submitted for analysis, analyzed for asbestos using laboratories accredited by the National Bureau of Standards, or which have received interim accreditation from EPA.

(b) Bulk samples shall not be composited for analysis and shall be analyzed for asbestos content by polarized light microscopy (PLM), using the Interim Method of the Determination of Asbestos in Bulk Insulation Samples found at Appendix A of Subpart F in 40 CFR Part 763.

(c)(1) A homogeneous area is considered not to contain ACM only if the results of all samples required to be collected from the area show asbestos in amounts of 1 percent or less.

(2) A homogeneous area shall be determined to contain ACM based on a finding that the results of at least one sample collected from that area shows that asbestos is present in an amount greater than 1 percent.

(d) The name and address of each laboratory performing an analysis, the date of analysis, and the name and signature of the person performing the analysis shall be submitted to the person designated under § 763.83 for inclusion into the management plan within 30 days of the analysis.

§ 763.88 Assessment.

(a)(1) For each inspection and reinspection conducted under § 763.85 (a) and (c) and previous inspections specified under § 763.99, the local education agency shall have an accredited inspector provide a written assessment of all friable known or assumed ACBM in the school building.

(2) Each accredited inspector providing a written assessment shall sign and date the assessment, provide his or her State of accreditation, and if applicable, accreditation number, and submit a copy of the assessment to the person designated under § 763.83 for inclusion in the management plan within 30 days of the assessment.

(b) The inspector shall classify the ACBM and suspected ACBM assumed to be ACM in the school building into one of the following categories:

(1) Damaged or significantly damaged thermal system insulation ACM.

(2) Damaged friable surfacing ACM.

(3) Significantly damaged friable surfacing ACM.

(4) Damaged or significantly damaged friable miscellaneous ACM.

(5) ACBM with potential for damage.

(6) ACBM with potential for significant damage.

(7) Any remaining friable ACBM or friable suspected ACBM.

(c) Assessment may include the following considerations:

(1) Location and the amount of the material, both in total quantity and as a percentage of the functional space.

(2) Condition of the material, specifying:

(i) Type of damage or significant damage (e.g., flaking, blistering, water damage, other signs of physical damage).

(ii) Severity of damage (e.g., major flaking, severely torn jackets, as opposed to occasional flaking, minor tears to jackets).

(iii) Extent or spread of damage over large areas or large percentages of the homogeneous area.

(3) Whether the material is accessible.

(4) The material's potential for disturbance.

(5) Known or suspected causes of damage or significant damage (e.g., water, vibration, air erosion, vandalism).

(6) Preventive measures which might eliminate the reasonable likelihood of undamaged ACM from becoming significantly damaged.

(d) The local education agency shall select a person accredited to develop management plans to review the results of each inspection, reinspection, and assessment for the school building and to conduct any other necessary activities in order to recommend in writing to the local education agency appropriate response actions. The accredited person shall sign and date the recommendation, provide his or her State of accreditation, and, if applicable, provide his or her accreditation number, and submit a copy of the recommendation to the person designated under § 763.83 for inclusion in the management plan.

§ 763.90 Response actions.

(a) The local education agency shall select and implement in a timely manner the appropriate response actions in this section consistent with the assessment conducted in § 763.88. Nothing in this section shall be construed to prohibit removal of ACBM from a school building at any time, should removal be

the preferred response action of the local education agency.

(b) If damaged or significantly damaged thermal system insulation ACM is present in a building, the local education agency shall:

(1) At least repair the damaged area.

(2) Remove the damaged material if it is not feasible, due to either technological factors or economic considerations, to repair the damage.

(3) Maintain all thermal system insulation ACM and its covering in an intact state and undamaged condition.

(c)(1) If damaged friable surfacing ACM or damaged friable miscellaneous ACM is present in a building, the local education agency shall select from among the following response actions: Encapsulation, enclosure, removal, or repair of the damaged material.

(2) In selecting the response action from among those which meet the definitional standards in § 763.81, the local education agency may consider local circumstances, including occupancy and use patterns within the school building, and its economic concerns, including short- and long-term costs.

(d) If significantly damaged friable surfacing ACM or significantly damaged friable miscellaneous ACM is present in a building the local education agency shall:

(1) Immediately isolate the functional space and restrict access, unless isolation is not necessary to protect human health and the environment.

(2) Remove the material in the functional space or, depending upon whether enclosure or encapsulation would be sufficient to contain fibers, enclose or encapsulate.

(e) If any friable surfacing ACM, thermal system insulation ACM, or friable miscellaneous ACM that has potential for damage is present in a building, the local education agency shall at least implement an operations and maintenance (O&M) program, as described under § 763.91.

(f) If any friable surfacing ACM, thermal system insulation ACM, or friable miscellaneous ACM that has potential for significant damage is present in a building, the local education agency shall:

(1) Implement an O&M program, as described under § 763.91.

(2) Institute preventive measures appropriate to eliminate the reasonable likelihood that the ACM or its covering will become significantly damaged, deteriorated, or delaminated.

(3) Remove the material as soon as possible if appropriate preventive measures cannot be effectively implemented, or unless other response actions are determined, by either technological factors or economic considerations, to be a preferred response. Immediately isolate the area and restrict access if necessary to avoid an imminent and substantial endangerment to human health or the environment.

(g) Response actions including removal, encapsulation, enclosure, or repair, other than small-scale, short-duration repairs, shall be designed and conducted by persons accredited to design and conduct response actions.

(h) The requirements of this Subpart E in no way supersede the worker protection and work practice requirements under 29 CFR 1926.58 (Occupational Safety and Health Administration (OSHA) asbestos worker protection standards for construction), 40 CFR Part 763, Subpart G (EPA asbestos worker protection standards for public employees), and 40 CFR Part 61, Subpart M (National Emission Standards for Hazardous Air Pollutants—Asbestos).

(i) *Completion of response actions.* (1) At the conclusion of any action to remove, encapsulate, or enclose ACBM or material assumed to be ACBM, a person designated by the local education agency shall visually inspect each functional space where such action was conducted to determine whether the action has been properly completed.

(2)(i) A person designated by the local education agency shall collect air samples using aggressive sampling as described in Appendix A to Subpart E of this part to monitor air for clearance after each removal, encapsulation, and enclosure project involving ACBM, except for projects that are of small-scale, short-duration.

(ii) Local education agencies shall have air samples collected under this section analyzed for asbestos using laboratories accredited by the National Bureau of Standards.

(3)(i) At any time, a local education agency may analyze air monitoring samples collected for clearance purposes by phase contrast microscopy (PCM) to confirm completion of removal, encapsulation, or enclosure of ACBM that is greater than small-scale, short-duration and less than or equal to 160 square feet or 260 linear feet.

(ii) The action shall be considered complete when the results of samples collected in the affected functional space show that the concentration of asbestos for each of the five samples is less than or equal to the limit of quantitation for PCM (0.01 fibers per cubic centimeter (0.01 f/cm^3) of air).

(4)(i) Except as provided in paragraphs (i) (5) and (6) of this section, an action to remove, encapsulate, or enclose ACBM shall be considered complete when the average concentration of asbestos does not exceed the limit of quantitation for the Transmission Electron Microscopy (TEM) protocol described in Appendix A of this Subpart E, based on five air samples collected within the affected functional space with an analytical sensitivity at a level no higher than 0.005 f/cm^3 of air.

(ii) If the average concentration of asbestos within the affected functional space exceeds the limit of quantitation for the TEM protocol, then the action to remove, encapsulate, or enclose ACBM shall be considered complete when the average concentration of asbestos based on five air samples collected within the affected functional space is not significantly different, as determined by the Z-test method found in Appendix A to Subpart E of this Part, from the average of five air samples collected at the same time outside the affected functional space.

(5)(i) Until October 7, 1989, a local education agency may analyze air monitoring samples collected for clearance purposes by PCM to confirm completion of removal, encapsulation, or enclosure of ACBM that is less than or equal to 3,000 square feet or 1,000 linear feet.

(ii) The section shall be considered complete when the results of samples collected in the affected functional space show that the concentration of asbestos for each of the five samples is less than or equal to the limit of quantitation for PCM (0.01 f/cm^3 of air).

(6)(i) From October 8, 1989, to October 7, 1990, a local education agency may analyze air monitoring samples collected for clearance purposes by PCM to confirm completion of removal, encapsulation, or enclosure of ACBM that is less than or equal to 1,500 square feet or 500 linear feet.

(ii) The action shall be considered complete when the results of samples collected in the affected functional space show that the concentration of asbestos for each of the five samples is less than or equal to the limit of quantitation for PCM (0.01 f/cm^3 of air).

(7) To determine the amount of ACBM affected under paragraphs (i) (5) and (6) of this section, the local education agency shall add the total square or linear footage of ACBM within the containment barriers used to isolate the functional space for the action to remove, encapsulate, or enclose the ACBM. Contiguous portions of material subject to such action conducted concurrently or at approximately the

same time within the same school building shall not be separated to qualify under paragraph (i) (5) or (6) of this section.

§ 763.91 Operations and maintenance.

(a) *Applicability.* The local education agency shall implement an operations, maintenance, and repair (O&M) program under this section whenever any friable ACBM is present or assumed to be present in a building that it leases, owns, or otherwise uses as a school building. Any material identified as non-friable ACBM or non-friable assumed ACBM must be treated as friable ACBM for the purposes of this section when the material is about to become friable as a result of activities performed in the school building.

(b) *Worker protection.* The protection provided by EPA at 40 CFR 763.121 for worker protection during asbestos abatement projects is extended to employees of local education agencies who perform operations, maintenance, and repair (O&M) activities involving ACM and who are not covered by the OSHA asbestos construction standard at 29 CFR 1926.58 or an asbestos worker protection standard adopted by a state under a state plan approved by OSHA under section 19 of the Occupational Safety and Health Act. Local education agencies may consult Appendix B of this subpart if their employees are performing operations, maintenance, and repair activities that are of small-scale, short-duration.

(c) *Training.* (1) The local education agency shall ensure, prior to the implementation of the O&M provisions of the management plan, that all members of its maintenance and custodial staff (custodians, electricians, heating/air conditioning engineers, plumbers, etc.) who may work in a building that contains ACBM receive awareness training of at least 2 hours, whether or not they are required to work with ACBM. New employees shall be trained within 30 days after commencement of employment. Training shall include, but not be limited to:

(i) Information regarding asbestos and its various uses and forms.

(ii) Information on the health effects associated with asbestos exposure.

(iii) Locations of ACBM identified throughout each school building in which they work.

(iv) Recognition of damage, deterioration, and delamination of ACBM.

(v) Name and telephone number of the person designated to carry out general local education agency responsibilities under § 763.83 and the availability and location of the management plan.

(2) The local education agency shall ensure that all members of its maintenance and custodial staff who conduct any activities that will result in the disturbance of ACBM shall receive training described in paragraph (c)(1) of this section and 14 hours of additional training. Additional training shall include, but not be limited to:

(i) Descriptions of the proper methods of handling ACBM.

(ii) Information on the use of respiratory protection as contained in the EPA/NIOSH *Guide to Respiratory Protection for the Asbestos Abatement Industry*, September 1986 (EPA–560–OPTS–86–001), available from TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–543, 401 M Street SW., Washington, DC 20460, and other personal protection measures.

(iii) The provisions of this section, appendices to this Subpart, EPA regulations contained in 40 CFR Part 763, Subpart G, and in 40 CFR Part 61, Subpart M, and OSHA regulations contained in 29 CFR 1926.58.

(iv) Hands-on training in the use of respiratory protection, other personal protection measures, and good work practices.

(3) Local education agency maintenance and custodial staff who have attended EPA-approved asbestos training or received equivalent training for O&M activities involving asbestos shall be considered trained for the purposes of this section.

(d) *Periodic surveillance.* (1) At least once every 6 months after a management plan is in effect, each local education agency shall conduct periodic surveillance in each building that it leases, owns, or otherwise uses as a school building that contains ACBM or is assumed to contain ACBM.

(2) Each person performing periodic surveillance shall:

(i) Visually inspect all areas that are identified in the management plan as ACBM or assumed ACBM.

(ii) Record the date of the surveillance, his or her name, and any changes in the condition of the materials.

(iii) Submit to the person designated to carry out general local education agency responsibilities under § 763.83 a copy of such record for inclusion in the management plan.

(e) *Initial cleaning.* Unless the building has been cleaned using equivalent methods within the previous 6 months, all areas of a school building where friable ACBM, damaged or significantly damaged thermal system insulation ACM, or friable suspected ACBM assumed to be ACM are present shall be cleaned at least once after the completion of the inspection required by § 763.85(a) and before the initiation of any response action, other than O&M activities or repair, according to the following procedures:

(1) HEPA-vacuum or steam-clean all carpets.

(2) HEPA-vacuum or wet-clean all other floors and all other horizontal surfaces.

(3) Dispose of all debris, filters, mopheads, and cloths in sealed leak-tight containers.

(f) *Operations and maintenance activities.* The local education agency shall ensure that the procedures described below to protect building occupants shall be followed for any operations and maintenance activities disturbing friable ACBM:

(1) Restrict entry into the area by persons other than those necessary to perform the maintenance project, either by physically isolating the area or by scheduling.

(2) Post signs to prevent entry by unauthorized persons.

(3) Shut off or temporarily modify the air-handling system and restrict other sources of air movement.

(4) Use work practices or other controls, such as wet methods, protective clothing, HEPA-vacuums, mini-enclosures, glove bags, as necessary to inhibit the spread of any released fibers.

(5) Clean all fixtures or other components in the immediate work area.

(6) Place the asbestos debris and other cleaning materials in a sealed, leak-tight container.

(g) *Maintenance activities other than small-scale, short-duration.* The response action for any maintenance activities disturbing friable ACBM, other than small-scale, short-duration maintenance activities, shall be designed by persons accredited to design response actions and conducted by persons accredited to conduct response actions.

(h) *Fiber release episodes.* (1) Minor fiber release episode. The local education agency shall ensure that the procedures described below are followed in the event of a minor fiber release episode (i.e., the falling or dislodging of 3 square or linear feet or less of friable ACBM):

(i) Thoroughly saturate the debris using wet methods.

(ii) Clean the area, as described in paragraph (e) of this section.

(iii) Place the asbestos debris in a sealed, leak-tight container.

(iv) Repair the area of damaged ACM with materials such as asbestos-free

spackling, plaster, cement, or insulation, or seal with latex paint or an encapsulant, or immediately have the appropriate response action implemented as required by § 763.90.

(2) Major fiber release episode. The local education agency shall ensure that the procedures described below are followed in the event of a major fiber release episode (i.e., the falling or dislodging of more than 3 square or linear feet of friable ACBM):

(i) Restrict entry into the area and post signs to prevent entry into the area by persons other than those necessary to perform the response action.

(ii) Shut off or temporarily modify the air-handling system to prevent the distribution of fibers to other areas in the building.

(iii) The response action for any major fiber release episode must be designed by persons accredited to design response actions and conducted by persons accredited to conduct response actions.

§ 763.93 Management plans.

(a)(1) On or before October 12, 1988, each local education agency shall develop an asbestos management plan for each school, including all buildings that they lease, own, or otherwise use as school buildings, and submit the plan to an Agency designated by the Governor of the State in which the local education agency is located. The plan may be submitted in stages that cover a portion of the school buildings under the authority of the local education agency.

(2) If a building to be used as part of a school is leased or otherwise acquired after October 12, 1988, the local education agency shall include the new building in the management plan for the school prior to its use as a school building. The revised portions of the management plan shall be submitted to the Agency designated by the Governor.

(3) If a local education agency begins to use a building as a school after October 12, 1988, the local education agency shall submit a management plan for the school to the Agency designated by the Governor prior to its use as a school.

(b) On or before October 17, 1987, the Governor of each State shall notify local education agencies in the State regarding where to submit their management plans. States may establish administrative procedures for reviewing management plans. If the Governor does not disapprove a management plan within 90 days after receipt of the plan, the local education agency shall implement the plan.

(c) Each local education agency must begin implementation of its management plan on or before July 9, 1989, and complete implementation in a timely fashion.

(d) Each local education agency shall maintain and update their management plan to keep it current with ongoing operations and maintenance, periodic surveillance, inspection, reinspection, and response action activities. All provisions required to be included in the management plan under this section shall be retained as part of the management plan, as well as any information that has been revised to bring the plan up-to-date.

(e) The management plan shall be developed by an accredited management planner and shall include:

(1) A list of the name and address of each school building and whether the school building contains friable ACBM, nonfriable ACBM, and friable and non-friable suspected ACBM assumed to be ACM.

(2) For each inspection conducted before the effective date of this Subpart E:

(i) The date of the inspection.

(ii) A blueprint, diagram, or written description of each school building that identifies clearly each location and approximate square or linear footage of any homogeneous or sampling area where material was sampled for ACM, and, if possible, the exact locations where bulk samples were collected, and the dates of collection.

(iii) A copy of the analyses of any bulk samples, dates of analyses, and a copy of any other laboratory reports pertaining to the analyses.

(iv) A description of any response actions or preventive measures taken to reduce asbestos exposure, including if possible, the names and addresses of all contractors involved, start and completion dates of the work, and results of any air samples analyzed during and upon completion of the work.

(v) A description of assessments, required to be made under § 763.88, of material that was identified before the effective date of this Subpart E as friable ACBM or friable suspected ACBM assumed to be ACM, and the name and signature, State of accreditation, and if applicable, accreditation number of each accredited person making the assessments.

(3) For each inspection and reinspection conducted under § 763.85:

(i) The date of the inspection or reinspection and the name and signature, State of accreditation and, if applicable, the accreditation number of each accredited inspector performing the inspection or reinspection.

(ii) A blueprint, diagram, or written description of each school building that identifies clearly each location and approximate square or linear footage of homogeneous areas where material was sampled for ACM, the exact location where each bulk sample was collected, date of collection, homogeneous areas where friable suspected ACBM is assumed to be ACM, and where nonfriable suspected ACBM is assumed to be ACM.

(iii) A description of the manner used to determine sampling locations, and the name and signature of each accredited inspector collecting samples, the State of accreditation, and if applicable, his or her accreditation number.

(iv) A copy of the analyses of any bulk samples collected and analyzed, the name and address of any laboratory that analyzed bulk samples, and a statement that the laboratory has been accredited under section 206(d) of Title II of the Act, the date of analysis, and the name and signature of the person performing the analysis.

(v) A description of assessments, required to be made under § 763.88, of all ACBM and suspected ACBM assumed to be ACM, and the name, signature, State of accreditation, and if applicable, accreditation number of each accredited person making the assessments.

(4) The name of the person designated under § 763.83 to ensure that the duties of the local education agency are carried out, and the course name, and dates and hours of training taken by that person to carry out the duties.

(5) The recommendations made to the local education agency regarding response actions, under § 763.88(d), the name, signature, State of accreditation of each person making the recommendations, and if applicable, his or her accreditation number.

(6) A detailed description of preventive measures and response actions to be taken, including methods to be used, for any friable ACBM, the locations where such measures and action will be taken, reasons for selecting the response action or preventive measure, and a schedule for beginning and completing each preventive measure and response action.

(7) With respect to the person or persons who inspected for ACBM and who will design or carry out response actions, except for operations and maintenance, with respect to the ACBM, one of the following statements:

(i) If the State has adopted a contractor accreditation program under section 206(b) of Title II of the Act, a statement that the person(s) is accredited under such plan.

(ii) A statement that the local education agency used (or will use) persons who have been accredited by another State which has adopted a contractor accreditation plan under section 206(b) of Title II of the Act or is accredited by an EPA-approved course under section 206(c) of Title II of the Act.

(8) A detailed description in the form of a blueprint, diagram, or in writing of any ACBM or suspected ACBM assumed to be ACM which remains in the school once response actions are undertaken pursuant to § 763.90. This description shall be updated as response actions are completed.

(9) A plan for reinspection under § 763.85 and a plan for operations and maintenance activities, including periodic surveillance, developed under § 763.91.

(10) A description of steps taken to inform workers and building occupants, or their legal guardians, about inspections, reinspections, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress.

(11) An evaluation of the resources needed to complete response actions successfully and carry out reinspection and operations and maintenance activities.

(12) With respect to each consultant who contributed to the management plan, the name of the consultant and one of the following statements:

(i) If the State has adopted a contractor accreditation plan under section 206(b) of Title II of the Act, a statement that the consultant is accredited under such plan.

(ii) A statement that the contractor is accredited by another State which has adopted a contractor accreditation plan under section 206(b) of Title II of the Act, or is accredited by an EPA-approved course developed under section 206(c) of the Title II of the Act.

(f) A local education agency may require each management plan to contain a statement signed by an accredited management plan developer that such person has prepared or assisted in the preparation of such plan or has reviewed such plan, and that such plan is in compliance with this Subpart E. Such statement may not be signed by a person who, in addition to preparing or assisting in preparing the management plan, also implements (or will implement) the management plan.

(g)(1) Upon submission of a management plan to the Governor for review, a local education agency shall keep a copy of the plan in its administrative office. The management plans shall be available, without cost or restriction, for inspection by representatives of EPA and the State, the public, including teachers, other school personnel and their representatives, and parents. The local education agency may charge a reasonable cost to make copies of management plans.

(2) Each local education agency shall maintain in its administrative office a complete, updated copy of a management plan for each school under its administrative control or direction. The management plans shall be available, without cost or restriction, for inspection by representatives of EPA and the State, the public, including teachers, other school personnel and their representatives, and parents. The local education agency may charge a reasonable cost to make copies of management plans.

(3) Each school shall maintain in its administrative office a complete, updated copy of its management plan. Management plans shall be available for inspection, without cost or restriction, to workers before work begins in any area of a school building. The school shall make management plans available for inspection to representatives of EPA and the State, the public, including parents, teachers, and other school personnel and their representatives within 5 working days after receiving a request for inspection. The school may charge a reasonable cost to make copies of management plans.

(4) Upon submission of its management plan to the Governor and at least once each school year, the local education agency shall notify parent, teacher, and employee organizations of the availability of management plans and shall include in the management plan a description of the steps taken to notify such organizations and a dated copy of the notification.

(h) Records required under § 763.94 shall be made by local education agencies and maintained as part of the management plan.

§ 763.94 Recordkeeping.

(a) Records required under this section shall be maintained as part of the management plan.

(b) For each preventive measure and response action taken for friable and non-friable ACBM and friable and non-friable suspected ACBM assumed to be ACM, the local education agency shall provide:

(1) A detailed written description of the measure or action, including methods used, the location where the measure or action was taken, reasons for selecting the measure or action, start and completion dates of the work, names and addresses of all contractors involved, and if applicable, their State of accreditation, and accreditation numbers, and if ACBM is removed, the name and location of storage or disposal site of the ACM.

(2) The name and signature of any person collecting any air sample required to be collected at the completion of certain response actions specified by § 763.90(i), the locations where samples were collected, date of collection, the name and address of the laboratory analyzing the samples, the date of analysis, the results of the analysis, the method of analysis, and the name and signature of the person performing the analysis.

(c) For each person required to be trained under § 763.91(c) (1) and (2), the local education agency shall provide the person's name and job title, the date that training was completed by that person, the location of the training, and the number of hours completed in such training.

(d) For each time that periodic surveillance under § 763.91(d) is performed, the local education agency shall record the name of each person performing the surveillance, the date of the surveillance, and any changes in the conditions of the materials.

(e) For each time that cleaning under § 763.91(e) is performed, the local education agency shall record the name of each person performing the cleaning, the date of such cleaning, the locations cleaned, and the methods used to perform such cleaning.

(f) For each time that operations and maintenance activities under § 763.91(f) are performed, the local education agency shall record the name of each person performing the activity, the start and completion dates of the activity, the locations where such activity occurred, a description of the activity including preventive measures used, and if ACBM is removed, the name and location of storage or disposal site of the ACM.

(g) For each time that major asbestos activity under § 763.91(g) is performed, the local education agency shall provide the name and signature, State of accreditation, and if applicable, the accreditation number of each person performing the activity, the start and completion dates of the activity, the locations where such activity occurred, a description of the activity including preventive measures used, and if ACBM is removed, the name and location of storage or disposal site of the ACM.

(h) For each fiber release episode under § 763.91(h), the local education agency shall provide the date and

location of the episode, the method of repair, preventive measures or response action taken, the name of each person performing the work, and if ACBM is removed, the name and location of storage or disposal site of the ACM.

§ 763.95 Warning labels.

(a) The local education agency shall attach a warning label immediately adjacent to any friable and non-friable ACBM and suspected ACBM assumed to be ACM located in routine maintenance areas (such as boiler rooms) at each school building. This shall include:

(1) Friable ACBM that was responded to by a means other than removal.

(2) ACBM for which no response action was carried out.

(b) All labels shall be prominently displayed in readily visible locations and shall remain posted until the ACBM that is labeled is removed.

(c) The warning label shall read, in print which is readily visible because of large size or bright color, as follows: CAUTION: ASBESTOS. HAZARDOUS. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT.

§ 763.97 Compliance and enforcement.

(a) *Compliance with Title II of the Act.* (1) Section 207(a) of Title II of the Act (15 U.S.C. 2647) makes it unlawful for any local education agency to:

(i) Fail to conduct inspections pursuant to section 203(b) of Title II of the Act, including failure to follow procedures and failure to use accredited personnel and laboratories.

(ii) Knowingly submit false information to the Governor regarding any inspection pursuant to regulations under section 203(i) of Title II of the Act.

(iii) Fail to develop a management plan pursuant to regulations under section 203(i) of Title II of the Act.

(2) Section 207(a) of Title II of the Act (15 U.S.C. 2647) also provides that any local education agency which violates any provision of section 207 shall be liable for a civil penalty of not more than $5,000 for each day during which the violation continues. For the purposes of this regulation, a "violation" means a failure to comply with respect to a single school building.

(b) *Compliance with Title I of the Act.* (1) Section 15(1)(D) of Title I of the Act (15 U.S.C. 2614) makes it unlawful for any person to fail or refuse to comply with any requirement of Title II or any rule promulgated or order issued under Title II. Therefore, any person who violates any requirement of this rule is in violation of section 15 of Title I of the Act.

(2) Section 15(3) of Title I of the Act (15 U.S.C. 2614) makes it unlawful for any person to fail or refuse to establish or maintain records, submit reports, notices or other information, or permit access to or copying of records, as required by this Act or a rule thereunder.

(3) Section 15(4) (15 U.S.C. 2614) of Title I of the Act makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11 of Title I of the Act.

(4) Section 16(a) of Title I of the Act (15 U.S.C. 2615) provides that any person who violates any provision of section 15 of Title I of the Act shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day such a violation continues shall, for purposes of this paragraph, constitute a separate violation of section 15. A local education agency is not liable for any civil penalty under Title I of the Act for failing or refusing to comply with any rule promulgated or order issued under Title II of the Act.

(c) *Criminal penalties.* If any violation committed by any person (including a local education agency) is knowing or willful, criminal penalties may be assessed under section 16(b) of Title I of the Act.

(d) *Injunctive relief.* The Agency may obtain injunctive relief under section 208(b) of Title II of the Act to respond to a hazard which poses an imminent and substantial endangerment to human health or the environment or section 17 (15 U.S.C. 2616) of Title I of the Act to restrain any violation of section 15 of Title I of the Act or to compel the taking of any action required by or under Title I of the Act.

(e) *Citizen complaints.* Any citizen who wishes to file a complaint pursuant to section 207(d) of Title II of the Act should direct the complaint to the Governor of the State or the EPA Asbestos Ombudsman. The citizen complaint should be in writing and identified as a citizen complaint pursuant to section 207(d) of Title II of TSCA Asbestos Hazard Emergency Response Act. The EPA Asbestos Ombudsman or the Governor shall investigate and respond to the complaint within in a reasonable period of time if the allegations provide a reasonable basis to believe that a violation of the Act has occurred.

(f) *Inspections.* EPA may conduct inspections and review management plans under section 11 of Title I of the Act (15 U.S.C. 2610) to ensure compliance.

§ 763.98 Waiver; delegation to State.

(a) *General.* (1) Upon request from a State Governor and after notice and comment and an opportunity for a public hearing in accordance with paragraphs (b) and (c) of this section, EPA may waive some or all of the requirements of this Subpart E if the State has established and is implementing or intends to implement a program of asbestos inspection and management that contains requirements that are at least as stringent as the requirements of this Subpart E.

(2) A waiver from any requirement of Subpart E shall apply only to the specific provision for which a waiver has been granted under this section. All requirements of Subpart E of this part shall apply until a waiver is granted under this section.

(b) *Request.* Each request by a Governor to waive any requirement of this Subpart E shall be sent with three complete copies of the request to Director, Office of Toxic Substances and shall include:

(1) A copy of the State provisions or proposed provisions relating to its program of asbestos inspection and management in schools for which the request is made.

(2)(i) The name of the State agency that is or will be responsible for administering and enforcing the requirements for which a waiver is requested, the names and job titles of responsible officials in that agency, and phone numbers where the officials can be contacted.

(ii) In the event that more than one agency is or will be responsible for administering and enforcing the requirements for which a waiver is requested, a description of the functions to be performed by each agency, how the program will be coordinated by the lead agency to ensure consistency and effective administration in the asbestos inspection and management program within the State, the names and job titles of responsible officials in the agencies, and phone numbers where the officials can be contacted. The lead agency will serve as the central contact point for the EPA.

(3) Detailed reasons, supporting papers, and the rationale for concluding that the State's asbestos inspection and management program provisions for which the request is made is at least as stringent as the requirements of this Subpart E.

(4) A discussion of any special situations, problems, and needs pertaining to the waiver request accompanied by an explanation of how the State intends to handle them.

(5) A statement of the resources that the State intends to devote to the administration and enforcement of the provisions relating to the waiver request.

(6) Copies of any specific or enabling State laws (enacted and pending enactment) and regulations (promulgated and pending promulgation) relating to the request, including provisions for assessing criminal and/or civil penalties.

(7) Ensurance from the Governor, the Attorney General, or the legal counsel of the lead agency that the lead agency or other cooperating agencies have the legal authority necessary to carry out the requirements relating to the request.

(c) *General notice—hearing.* (1) Within 30 days after receipt of a request for a waiver, EPA will determine the completeness of the request. If EPA does not request further information within the 30-day period, the request will be deemed complete.

(2) Within 30 days after EPA determines that a request is complete, EPA will issue for publication in the **Federal Register** a notice that announces receipt of the request, describes the information submitted under paragraph (b) of this section, and solicits written comment from interested members of the public. Comments must be submitted within 60 days.

(3) If, during the comment period, EPA receives a written objection to a Governor's request and a request for a public hearing detailing specific objections to the granting of a waiver, EPA will schedule a public hearing to be held in the affected State after the close of the comment period and will announce the public hearing date in the **Federal Register** before the date of the hearing. Each comment shall include the name and address of the person submitting the comment.

(d) *Criteria.* EPA may waive some or all of the requirements of Subpart E of this part if:

(1) The State's lead agency and other cooperating agencies have the legal authority necessary to carry out the provisions of asbestos inspection and management in schools relating to the waiver request.

(2) The State's program of asbestos inspection and management in schools relating to the waiver request and implementation of the program are or will be at least as stringent as the requirements of this Subpart E.

(3) The State has an enforcement mechanism to allow it to implement the program described in the waiver request.

(4) The lead agency and any cooperating agencies have or will have qualified personnel to carry out the provisions relating to the waiver request.

(5) The State will devote adequate resources to the administration and enforcement of the asbestos inspection and management provisions relating to the waiver request.

(6) When specified by EPA, the State gives satisfactory ensurances that necessary steps, including specific actions it proposes to take and a time schedule for their accomplishment, will be taken within a reasonable time to conform with applicable criteria under paragraphs (d)(2) through (4) of this section.

(e) *Decision.* EPA will issue for publication in the **Federal Register** a notice announcing its decision to grant or deny, in whole or in part, a Governor's request for a waiver from some or all of the requirements of Subpart E within 30 days after the close of the comment period or within 30 days following a public hearing, whichever is applicable. The notice will include the Agency's reasons and rationale for granting or denying the Governor's request. The 30-day period may be extended if mutually agreed upon by EPA and the State.

(f) *Modifications.* When any substantial change is made in the administration or enforcement of a State program for which a waiver was granted under this section, a responsible official in the lead agency shall submit such changes to EPA.

(g) *Reports.* The lead agency in each State that has been granted a waiver by EPA from any requirement of Subpart E of this Part shall submit a report to Director, Office of Toxic Substances at least once every 12 months to include the following information:

(1) A summary of the State's implementation and enforcement activities during the last reporting period relating to provisions waived under this section, including enforcement actions taken.

(2) Any changes in the administration or enforcement of the State program implemented during the last reporting period.

(3) Other reports as may be required by EPA to carry out effective oversight of any requirement of this Subpart E that was waived under this section.

(h) *Oversight.* EPA may periodically evaluate the adequacy of a State's implementation and enforcement of and resources devoted to carrying out requirements relating to the waiver. This evaluation may include, but is not limited to, site visits.

(i) *Informal conference.* (1) EPA may request that an informal conference be held between appropriate State and EPA officials when EPA has reason to believe that a State has failed to:

(i) Substantially comply with the terms of any provision that was waived under this section.

(ii) Meet the criteria under paragraph (d) of this section, including the failure to carry out enforcement activities or act on violations of the State program.

(2) EPA will:

(i) Specify to the State those aspects of the State's program believed to be inadequate.

(ii) Specify to the State the facts that underlie the belief of inadequacy.

(3) If EPA finds, on the basis of information submitted by the State at the conference, that deficiencies did not exist or were corrected by the State, no further action is required.

(4) Where EPA finds that deficiencies in the State program exist, a plan to correct the deficiencies shall be negotiated between the State and EPA. The plan shall detail the deficiencies found in the State program, specify the steps the State has taken or will take to remedy the deficiencies, and establish a schedule for each remedial action to be initiated.

(j) *Rescission.* (1) If the State fails to meet with EPA or fails to correct deficiencies raised at the informal conference, EPA will deliver to the Governor of the State and a responsible official in the lead agency a written notice of its intent to rescind, in whole or part, the waiver.

(2) EPA will issue for publication in the **Federal Register** a notice that announces the rescission of the waiver, describes those aspects of the State's program determined to be inadequate, and specifies the facts that underlie the findings of inadequacy.

§ 763.99 Exclusions.

(a) A local education agency shall not be required to perform an inspection under § 763.85(a) in any sampling area as defined in 40 CFR 763.103 or homogeneous area of a school building where:

(1) An accredited inspector has determined that, based on sampling records, friable ACBM was identified in that area during an inspection conducted before the effective date of this Subpart E. The inspector shall sign and date a statement to that effect with his or her State of accreditation and if applicable, accreditation number and, within 30 days after such determination, submit a copy of the statement to the person designated under § 763.83 for inclusion in the management plan.

However, an accredited inspector shall assess the friable ACBM under § 763.88.

(2) An accredited inspector has determined that, based on sampling records, non-friable ACBM was identified in that area during an inspection conducted before the effective date of this Subpart E. The inspector shall sign and date a statement to that effect with his or her State of accreditation and if applicable, accreditation number and, within 30 days after such determination, submit a copy of the statement to the person designated under § 763.83 for inclusion in the management plan. However, an accredited inspector shall identify whether material that was non-friable has become friable since that previous inspection and shall assess the newly-friable ACBM under § 763.88.

(3) Based on sampling records and inspection records, an accredited inspector has determined that no ACBM is present in the area and the records show that the area was sampled, before the effective date of this Subpart E, in substantial compliance with § 763.85(a), which for purposes of this section means in a random manner and with a sufficient number of samples to reasonably ensure that the area is not ACBM.

(i) The accredited inspector shall sign and date a statement, with his or her State of accreditation and if applicable, accreditation number that the area determined not to be ACBM was sampled in substantial compliance with § 763.85(a).

(ii) Within 30 days after the inspector's determination, the local education agency shall submit a copy of the inspector's statement to the EPA Regional Office and shall include the statement in the management plan for that school.

(4) The lead agency responsible for asbestos inspection in a State that has been granted a waiver from § 763.85(a) has determined that, based on sampling records and inspection records, no ACBM is present in the area and the records show that the area was sampled before the effective date of this Subpart E in substantial compliance with § 763.85(a). Such determination shall be included in the management plan for that school.

(5) An accredited inspector has determined that, based on records of an inspection conducted before the effective date of this Subpart E, suspected ACBM identified in that area is assumed to be ACM. The inspector shall sign and date a statement to that effect, with his or her State of accreditation and if applicable, accreditation number and, within 30 days of such determination, submit a copy of the statement to the person designated under § 763.83 for inclusion in the management plan. However, an accredited inspector shall identify whether material that was non-friable suspected ACBM assumed to be ACM has become friable since the previous inspection and shall assess the newly friable material and previously identified friable suspected ACBM assumed to be ACM under § 763.88.

(6) Based on inspection records and contractor and clearance records, an accredited inspector has determined that no ACBM is present in the area where asbestos removal operations have been conducted before the effective date of this Subpart E and shall sign and date a statement to that effect and include his or her State of accreditation and, if applicable, accreditation number. The local education agency shall submit a copy of the statement to the EPA Regional Office and shall include the statement in the management plan for that school.

(7) An architect or project engineer responsible for the construction of a new school building built after October 12, 1988, or an accredited inspector signs a statement that no ACBM was specified as a building material in any construction document for the building, or, to the best of his or her knowledge, no ACBM was used as a building material in the building. The local education agency shall submit a copy of the signed statement of the architect, project engineer, or accredited inspector to the EPA Regional Office and shall include the statement in the management plan for that school.

(b) The exclusion, under paragraphs (a) (1) through (4) of this section, from conducting the inspection under § 763.85(a) shall apply only to areas of a school building that were inspected and sampled before October 17, 1987. The local education agency shall conduct an inspection under § 763.85(a) of all areas inspected before October 17, 1987, that were not sampled or were not assumed to be ACM.

Appendix A to Subpart E—Interim Transmission Electron Microscopy Analytical Method and Field Sampling Protocol for the Clearance Testing of an Abatement Site

Definitions of Terms

"Analytical sensitivity"—Airborne asbestos concentration represented by each fiber counted under the electron microscope. It is determined by the air volume collected and the proportion of the filter examined. This method requires that the analytical sensitivity be no greater than 0.005 f/cm^3.

"Asbestiform"—A specific type of mineral fibrosity in which the fibers and fibrils possess high tensile strength and flexibility.

"Aspect ratio"—A relative comparison of the length to the width of a particle.

"Clean area"—A controlled environment which is maintained and monitored to assure a low probability of asbestos contamination to materials in that space. Clean areas used in this method have HEPA filtered air under positive pressure and are capable of sustained operation with an open laboratory blank which on subsequent analysis has an average of <0.5 fibers per 10 grid openings and seldom more than 3 fibers for that same area.

"EDXA"—Energy dispersive X-ray analysis.

"Fiber"—A structure >0.5 micrometers in length with an aspect ratio (length to width) of 5 to 1 or greater and having substantially parallel sides.

"Grid"—An open structure for mounting on the sample to aid in its examination in the TEM. The term is used here to denote a 200-mesh copper lattice approximately 3 mm in diameter.

"Laboratory sample coordinator"—That person responsible for the conduct of sample handling and the certification of the testing procedures.

"Limit of quantitation"—Defined as four times the analytical sensitivity of this method.

"Operator"—A person responsible for the TEM instrumental analysis of the sample.

"PCM"—Phase contrast microscopy.

"SAED"—Selected area electron diffraction.

"SEM"—Scanning electron microscope.

"STEM"—Scanning transmission electron microscope.

"Structure"—A microscopic bundle, cluster, fiber, or matrix which may contain asbestos.

"TEM"—Transmission electron microscope.

SELECTED SILICATE MINERALS AND THEIR ASBESTIFORM VARIETIES

Mineral	Asbestiform variety
Amphibole group	
Anthophyllite: $(Mg,Fe^{2+})_7Si_8O_{22}(OH,F)_2$	Anthophyllite asbestos.
Cummingtonite-grunerite: $(Mg,Fe^{2+})_7Si_8O_{22}(OH)_2$	Cummingtonite-grunerite asbestos.
Tremolite-actinolite: $Ca_2(Mg,Fe^{2+})_5Si_8O_{22}(OH,F)_2$	Tremolite-actinolite asbetos.
Riebeckite: $Na_2Fe_3Fe_2^{3+}Si_8O_{22}(OH,F)_2$	Crocidolite.
Serpentine group	
Serpentine: $Mg_6Si_4O_{10}(OH)_8$	Chrysotile.

I. Sampling

A. Sampling operations must be performed by qualified individuals completely independent of the abatement contractor to avoid possible conflict of interest (References 1–3, 5). Special precautions must be taken to avoid contamination of the sample. For example, do not use materials that have not been prescreened for their asbestos background content; also, do not use sample handling procedures which do not take cross contamination possibilities into account.

B. Material and supply checks must be made on all critical supplies and reagents before their use in a monitoring study.

C. Quality control and quality assurance steps are mandatory to identify problem areas and isolate the cause of the contamination (Ref. 5). Control checks shall be permanently recorded to document the quality of the information produced.

D. Sampling medium. 1. Sample for airborne asbestos following an abatement action using a three-piece cassette available commercially in 25 mm, 37 mm, or 47 mm diameter sizes.

2. Use either a cowling or a filter-retaining middle piece made of a conductive material to minimize possible static charge effects on the sample.

3. Load cassettes with filters from stock lots that have been sampled and found to meet background asbestos content as specified by this TEM analysis method.

4. Use sample collection filters which are either polycarbonate or mixed cellulose ester having a pore size of 0.45 μm or less.

5. Place these filters in series with a 5.0 μm backup filter and cellulosic support pad.

6. When polycarbonate filters are used, position the highly reflective face such that the incoming particulate is received on this surface.

7. Assemble the cassettes in a clean facility (see Definitions).

8. Seal the cassettes to prevent leakage around the filter edges or between cassette part joints. A mechanical press may be useful to achieve a reproducible leak-free seal.

9. Use wrinkle-free loaded cassettes in the sampling operation.

E. *Sampling.* 1. Calibrate the sampling pump over the range of flow rates and loads anticipated for the study with its flow measuring device in series. Perform this calibration using guidance from EPA Method 2A each time the unit is sent to the field (Ref. 6).

2. Configure the sampling system to preclude pump vibrations from being transmitted to the cassette by using a sampling stand separate from the pump station and making connections with flexible tubing.

3. Maintain constant flow conditions by damping out any pump action fluctuations.

4. Check the sampling system for leaks with the end cap still in place and the pump before initiating sample collection. Trace and stop the source of any flow indicated by the flowmeter under these conditions.

5. Select an appropriate flow rate equal to or less than 10 L/min for 25 mm cassettes. Larger filters may be operated at proportionally higher flow rates.

6. Orient the cassette downward at approximately 45 degrees.

7. Maintain a log of all pertinent sampling information, such as pump identification number, calibration data, sample location, date, sample identification number, flow rates at the beginning, middle, and end, start and stop times, and other useful information or comments.

8. Initiate a chain of custody procedure at the start of each sampling, if this is requested by the client.

9. Maintain a close check of all aspects of the sampling operation.

10. Continue sampling until at least the minimum volume to obtain the desired quantitation limits (see Table I) is collected. Do not exceed the maximum volumes described in Table II.

11. At the conclusion of sampling, turn the cassette upward before stopping the flow to minimize possible particle loss. If the sampling is resumed, restart the flow before reorienting the cassette downward. Note the condition of the filter at the conclusion of sampling.

12. Double check to see that all information has been recorded on the data collection forms and that the cassette is securely closed and appropriately labeled before shipment.

13. Do not change containers or take portions of these filters for other purposes.

F. *Abatement area sampling.*

1. Conduct final clearance sampling only after the primary containment barriers have been removed, the abatement area has been thoroughly dried and it has passed visual inspection tests. Note the final plastic barrier remains in place for the sampling period. (Ref. 1)

2. Containment barriers over windows, doors, and air passageways must remain in place until the TEM clearance sampling and analysis is completed and results meet clearance test criteria.

3. Collect five samples per abatement area to compare to the five ambient samples.

4. Select sampling sites in the abatement area on a random basis to provide an unbiased and representative sample.

5. Take a field blank at each abatement area before sampling is initiated by removing the cap for not more than 30 seconds and replacing it at the time of sampling. (Do not leave the blank open during the sampling period.)

6. Carry a sealed blank with each sample set. This representative cassette is not to be opened in the field.

7. Use aggressive sampling conditions to dislodge any remaining dust.

a. Negative filtration units shall remain on during the air monitoring period.

b. Prior to air monitoring, floors, ceiling and walls shall be swept with the exhaust of a 1 horsepower leaf blower.

c. Stationary fans are placed on two-meter high stands in locations which will not interfere with air monitoring equipment. Fan air is directed at ceiling and is operated at low speed. One fan shall be used for each 10,000 cubic feet of worksite.

8. Pump flow rates up to 10 L/min may be used for 25 mm cassettes. The larger cassette diameters may have comparably increased flow.

9. Sample a volume of air sufficient to ensure the minimum quantitation limits. See Table I.

G. *Ambient sampling.* 1. Site ambient samplers at locations representative of the air entering the abatement site. If makeup air entering the abatement site is drawn from another area of the

building which is outside of the abatement area, place the pumps in this area. If no areas exist in the building and the air is drawn from outside of the building, pumps should be placed out of doors located near the building, and away from any obstructions that may influence wind patterns. Samples should be representative of any air entering the worksite.

2. Locate the ambient samplers at least 3 feet apart and protect them from adverse weather conditions.

3. Unless otherwise indicated, take five samples to match the clearance sampling.

4. Take a field blank at the ambient site.

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TABLE I -- RELATIONSHIP BETWEEN VOLUME FILTERED AND EFFECTIVE AREA ON THE NUMBER OF EM GRID OPENINGS TO BE SCANNED

Volume filtered in Liters

Filter	Eff. Area	514	922	1331	1739	2148	2556	2965	3373	3782	4190	4599
25 mm	385 sq. mm	24†	13	9	7	6	5	4				
37 mm	855 sq. mm			21	16	13	11	9	8	7	7	6
47 mm	1134 sq. mm				21	17	14	12	11	10	9	8

Volume Filtered in Liters

Filter	Eff. Area	5007	5416	5824	6233	6641	7050	7458	7867	8275	8684	9092
25 mm	385 sq. mm											
37 mm	855 sq. mm	5	5	5	4	4	4	4				
47 mm	1134 sq. mm	7	7	6	6	5	5	5	5	4	4	4

TABLE II -- MINIMUM/MAXIMUM VOLUMES TO MAINTAIN ANALYTICAL SENSITIVITY OF 0.005 FIBERS PER CC

	Filter size		
	25 mm	37 mm	47 mm
Minimum Volume (liters)	514	1142	1515
Maximum Volume (liters)	3087	6855	9092

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II. Sample Shipment

A. Select a rigid shipping container and pack the cassettes upright in a noncontaminating nonfibrous medium such as a bubble pack.

B. Avoid using expanded polystyrene because of its static charge potential. Also avoid using particle-based packaging materials because of possible contamination.

C. Include a shipping bill and a detailed listing of samples shipped, their descriptions and all identifying numbers or marks, air volumes collected, shipper's name, and contact information. For each sample set, designate which are the ambient samples, which are the abatement area samples, which are the field blanks, and which is the sealed blank if sequential sampling is to be performed.

D. Hand carry samples to the laboratory in an upright position if possible; otherwise choose that mode of transportation least likely to jar the samples in transit.

E. Address the package to the laboratory sample coordinator by name when known and alert him or her of the package description, shipment mode, and anticipated arrival as part of the chain of custody and sample tracking procedures. This will also help the laboratory schedule timely analysis for the samples when they are received.

III. Sample Receiving

A. Designate one individual as sample coordinator at the laboratory. While that individual will normally be available to receive samples, the coordinator may train and supervise others in receiving procedures for those times when he/she is not available.

B. Adhere to the following procedures to ensure the continued chain of custody and also the accountability of all other samples passing through the laboratory.

1. Note the condition of the shipping package and data contained on it on receipt.

2. Retain all bills of lading or shipping slips to document the shipper and delivery time.

3. Examine the chain-of-custody seal, if any, and the package for their integrity.

4. If there has been a break in the seal or substantive damage to the package, the sample coordinator shall immediately notify the shipper and a responsible laboratory manager before any action is taken to unpack the shipment.

5. Packages with significant damage shall be accepted only by the responsible laboratory manager after discussions with the client.

C. Unwrap the shipment in a clean, uncluttered facility. The sample coordinator or his or her designee will record the contents, including a description of each item and all identifying numbers or marks. A Chain-of-Custody Sample Receiving Form to document this information is attached for use when necessary.

Note.—The person breaking the chain of custody seal and itemizing the contents assumes responsibility for the shipment and signs documents accordingly.

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Example Form

Page ____ of ____

CHAIN-OF-CUSTODY SAMPLE RECEIVING FORM

Date of package delivery _____ Package shipped from _____

Carrier _____ Shipping bill retained _____

*Condition of package on receipt _____

*Condition of custody seal _____

Comments _____

Number of samples received _____ Shipping manifest attached _____

(Use as many additional sheets as needed)

No.	Description	Receiving ID #	Assigned #
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			

(Use as many additional sheets as needed.)

Comments _____

Date of acceptance into sample bank _____

Signature of chain-of-custody recipient _____

Disposition of samples _____

*Note: If the package has sustained substantial damage or the custody seal is broken, stop and contact the project manager and the shipper.

BILLING CODE 6560-50-C

D. Assign a laboratory number and schedule an analysis sequence.

E. Secure samples in a locked storage or convey them immediately to the analyst if they represent custody samples.

F. Manage all Chain-of-Custody samples within the laboratory such that their integrity can be ensured and documented.

G. Check-in and check-out from the locked storage area shall be conducted by the sample coordinator or his or her designee.

H. Treat all other samples in a similar manner except for use of chain custody forms, which are not necessary.

IV. Sample Preparation

A. Wet-wipe cassettes to clean the exterior of any possible contamination before taking them into the clean room facility.

B. Perform sample preparation in a well-equipped clean facility (see Definitions and Sections E and F).

Note.—The clean area is required to have the following minimum characteristics. The area or hood must be capable of maintaining a positive pressure with make-up air being HEPA filtered. The cumulative analytical blank concentration must average less then 0.5 fibers per preparation (ten 200 mesh grid openings) with no single preparation to exceed 3 fibers.

C. Preparation areas for air samples must be separated from preparation areas for bulk samples.

D. Procedures. Sample preparation is a subject requiring additional research. Variation on those steps which do not substantively change the procedure, which improve filter clearing or which reduce contamination problems in a particular laboratory are permitted.

1. Measure the grid opening areas of the TEM grids. This can be accomplished on the TEM at a properly calibrated low magnification or on an optical microscope at the magnification of approximately 400 by using an eyepiece fitted with a scale that has been calibrated against the stage micrometer. The dimensions of the grid openings must be measured.

Case No. 1. The dimensions of one grid opening for each of two grids examined for each sample will be reported along with the measurement method used.

Case No. 2. The 20-grid openings will be measured on each of 20 grids from a batch of 1,000 grids. This will certify the dimensions of the grid openings for the batch of 1,000. This must be performed prior to the grids being sent to the sample preparation area for use in sample preparation.

2. Remove the inlet and outlet caps prior to opening the cassette to minimize any pressure differential that may be present.

3. Examples of techniques used to prepare polycarbonate filters are described in Section G.

4. Examples of techniques used to prepare mixed cellulose ester filters are described in Sections H and I.

5. Prepare at least three satisfactory grids for each sample. A TEM grid is considered satisfactory if the grid openings exhibit uniform clarity and contrast and have at least 50 percent of the replicate grid openings intact.

6. Store the three grids to be measured in appropriate grid holders or plastic capsules, numbered one through three, and labeled with the same number.

E. *Equipment in clean room.* 1. Clean area.

2. Tweezers. Fine-point tweezers for handling of filters and TEM grids.

3. Scalpel Holder and Curved No. 10 Surgical Blades.

4. Microscope Slides, 75 mm×50 mm and 75 mm×25 mm.

5. Double-Coated Adhesive Tape (3M Scotch No. 666).

6. Gummed Page Reinforcements.

7. Micro-Pipet With Disposable Tips 10 to 100 microliter variable volume.

8. High-Vacuum Coating Unit With Facilities for Evaporation of Carbon. The coating unit must be capable of producing a vacuum better than 0.013 Pa (10^{-4} torr). A holder is required that will allow a 75 mm×50 mm or a 75 mm×25 mm glass microscope slide to be tilted and rotated during the evaporation procedure. Use of a liquid nitrogen cold trap above the diffusion pump will minimize the possibility of contamination of the filter surfaces by oil from the pumping system. The vacuum-coating unit can also be used for deposition of a thin film of gold, which is required on TEM specimens that are used to obtain calibrated SAED patterns. If available, a sputter coater is recommended because it allows better control of deposition of gold.

9. *Carbon Rod Electrodes.* Spectrochemically pure carbon rods are required for use in the vacuum evaporator for carbon coating of filters.

10. *Carbon Rod Sharpener.* This is used to sharpen carbon rods to a neck of about 3.6 mm long and 1.0 mm in diameter. The use of necked carbon rods (or equivalent) allows the carbon to be applied to the filters with a minimum of heating.

11. *Low-Temperature Plasma Asher.* This is used to etch the surface of collapsed mixed ester cellulose (MEC) filters. The asher should be supplied with oxygen, and should be modified as necessary to provide a valve to control the speed of air admission. Some early models of asher admit air too rapidly, which may disturb particulate on the surface of the filter after the etching step.

12. Glass Petri Dishes, 10 cm in diameter, 1 cm high. For prevention of excessive evaporation of solvent when these are in use, a good seal must be provided between the base and the lid. The seal can improved by grinding the base and lid together with an abrasive grinding material.

13. Stainless Steel Mesh.

14. Lens Tissue.

15. Copper 200-mesh TEM Grids, 3 mm in diameter, or equivalent.

16. Gold 200-mesh TEM Grids, 3 mm in diameter, or equivalent.

17. Condensation Washer.

18. Carbon-Coated, 200-mesh TEM Grids, or equivalent.

19. Analytical Balance, 0.1 mg sensitivity.

20. Filter Paper, 9 cm in diameter.

21. Oven or Slide Warmer. Must be capable of maintaining a temperature of 65 to 70 degrees C.

22. Polyurethane Foam, 12 mm thickness.

23. Gold Wire for Evaporation.

F. *Reagents.* 1. General. A supply of ultra-clean, fiber-free water must be available for washing of all components used in the analysis. Water that has been distilled in glass or filtered, deionized water is satisfactory for this purpose. Reagents must be fiber free.

2. Nuclepore Preparation Method—Chloroform.

3. MEC Preparation Method A—Dimethyl Formamide and Glacial Acetic Acid.

4. MEC Preparation Method B—Acetone.

G. *TEM specimen preparation from nuclepore polycarbonate filters*—1. *Specimen Preparation Laboratory.* It is most important to ensure that contamination of TEM specimens by extraneous asbestos fibers is minimized during preparation.

2. *Cleaning of Sample Cassettes.* Upon receipt at the analytical laboratory, before they are taken into the clean facility or laminar flow hood, the sample cassettes must be cleaned of any contamination adhering to the outside surfaces. After the cassettes have been checked to ensure that it is tightly sealed and the plugs are in both ends, it should be thoroughly cleaned by rinsing with water and wet-wiping and then dried with a clean paper towel.

3. *Preparation of the carbon evaporator.* If the Nuclepore filter has already been carbon-coated prior to

receipt, the carbon coating step will be omitted, unless the analyst believes the carbon film is too thin. If there is a need to apply more carbon, the filter will be treated in the same way as an uncoated filter. Carbon coating must be performed with a high-vacuum coating unit. Units that are based on evaporation of carbon filaments in a vacuum generated only by an oil rotary pump have not been evaluated for this application, and must not be used. The carbon rods should be sharpened by a carbon rod sharpener to necks of about 3.6 mm long and 1.0 mm in diameter. The rods are installed in the evaporator in such a manner that the points are approximately 10 to 12 cm from the surface of a microscope slide held in the rotating and tilting device.

4. *Selection of filter area for carbon coating.* Before preparation of the filters, a 75 mm×50 mm microscope slide is washed and dried. This slide is used to support strips of filter during the carbon evaporation. Two parallel strips of double-sided adhesive tape are applied along the length of the slide, separated by a distance of approximately 22 mm. Polycarbonate filters are easily stretched during handling, and cutting of areas for further preparation must be performed with great care. The filter and the MEC backing filter are removed together from the cassette and placed on a cleaned glass microscope slide. The filter can be cut with a curved scapel blade by rocking the blade from the point placed in contact with filter. The process can be repeated to cut a strip approximately 3 mm wide across the diameter of the filter. The strip of polycarbonate filter is separated from the corresponding strip of backing filter and carefully placed so that it bridges the 22 mm gap between the adhesive tape strips on the microscope slide. The filter strip can be held with fine-point tweezers and supported underneath by the scalpel blade during placement on the microscope slide. The analyst can place several such strips on the same microscope slide, taking care to rinse and wet-wipe the scalpel blade and tweezers between the handlinq of each sample. The filter strips should be identified by writing on the glass slide with a wax pencil. After the filter strip has been cut from each filter, the residual parts of the filter must be returned to the cassette and held in position by reassembly of the cassette. This cassette will then be archived.

5. *Carbon coating of filter strips.* The glass slide holding the filter strips is placed on the rotation-tilting device, and the evaporator chamber is evacuated to a vacuum better than 0.013 Pa. The evaporation must be performed in very short bursts, separated by some seconds to allow the electrodes to cool. If evaporation is too rapid, the strips of polycarbonate filter will begin to curl, which will lead to cross-linking of the surface material and make it relatively insoluble in chloroform. An experienced analyst can judge the thickness of carbon film to be applied, and some test should be made first on unused filters. If the film is too thin, large particles will be lost from the TEM specimen and there will be few complete and undamaged grid openings on the specimen. If the coating is too thick, the filter will tend to curl when exposed to chloroform vapor and the carbon film may not adhere to the support mesh. Too thick a carbon film will also lead to a TEM image that is lacking in contrast, and the ability to obtain SAED patterns will be compromised. The carbon film should be as thin as possible and still retain most of the grid openings of the TEM specimen intact.

6. *Preparation of the Jaffe Washer.* The precise design of the Jaffe Washer is not considered important, so any one of the published designs may be used. The washer consisting of a simple stainless steel bridge is recommended. Several pieces of lens tissue approximately 1.0 cm×1.5 cm are placed on the stainless steel bridge, and the washer is filled with chloroform to a level where the meniscus contacts the underside of the mesh, which results in saturation of the lens tissue.

7. *Placing of specimens into the Jaffe Washer.* The TEM grids are first placed on a piece of lens tissue so that individual grids can be picked up with tweezers. Using a curved scalpel blade, the analyst excises three 3 mm square pieces of the carbon-coated polycarbonate filter from the filter strip. The three squares are selected from the center of the strip and from two points between the outer periphery of the active surface and the center. The piece of filter, carbon side up, is placed on a TEM specimen grid with the shiny side of the TEM grid facing upwards, and the whole assembly is placed boldly onto the saturated lens tissue in the Jaffe Washer. The three excised squares of filter are placed on the same piece of lens tissue. Any number of separate pieces of lens tissue may be placed in the same Jaffe Washer. The lid is then placed on the Jeffe Washer, and the system is allowed to stand for several hours, preferably overnight.

8. *Condensation washing.* It has been found that many polycarbonate filters will not dissolve completely in the Jaffe Washer, even after being exposed to chloroform for as long as 3 days. This problem becomes more serious if the surface of the filter was overheated during the carbon evaporation. The presence of undissolved filter medium on the TEM preparation leads to partial or complete obscuration of areas of the sample, and fibers that may be present in these areas of the specimen will be overlooked; this will lead to a low result. Undissovled filter medium also compromises the ability to obtain SAED patterns. Before they are counted, TEM grids must be examined critically to determine whether they are adequately cleared of residual filter medium. It has been found that condensation washing of the grids after the initial Jaffe Washer treatment, with chloroform as the solvent, clears all residual filter medium in a period of approximately 1 hour. In practice, the piece of lens tissue supporting the specimen grids is transferred to the cold finger of the condensation washer, and the washer is operated for about 1 hour. If the specimens are cleared satisfactorily by the Jaffe Washer alone, the condensation washer step may be unnecessary.

H. *TEM specimen preparation from MEC filters (Method A)*— 1. *Preparation of collapsing solution.* The collapsing solution is prepared by mixing 35 ml of analytical-grade dimethyl formamide, 15 ml of analytical-grade glacial acetic acid, and 50 ml of freshly distilled water. The solution must be stored in a prewashed glass bottle with a polyethylene stopper. Ground-glass stoppers must not be used (Ref. 7 and 8).

2. *Cleaning of sample cassettes.* Upon receipt at the analytical laboratory, and before they are taken into the clean facility or laminar flow hood, the sample cassettes must be cleaned of any contamination adhering to the outside surfaces. After the analyst has checked to ensure that the cassette is tightly sealed and the plugs are in both ends, the cassettes should be thoroughly cleaned by rinsing with water and wet-wiping and then dried with clean paper towel.

3. *Selection of area of MEC filter for preparation.* One-quarter of the filter will be prepared by the collapsing procedure. This allows adequate filter area for the preparation of at least three TEM specimens and leaves sufficient filter area for interlaboratory and intralaboratory QA analyses. Using clean tweezers, the analyst removes the MEC filter from the filter cassette and places it on a washed microscope slide. A clean curved-blade scalpel is used to cut out a 90-degree sector, and the balance of the filter is returned to the cassette to be archived.

4. *Filter collapsing procedure.* A 75 mm x 25 mm microscope slide is washed in detergent, rinsed several times in distilled or filtered, deionized water, and then allowed to dry. Twenty to 30 microliters of the collapsing solution is placed in the middle of the slide by using a disposable tip micropipet, and the end of the pipet is used to spread the liquid out over the area to be occupied by the quarter filter. The quarter filter, active surface upwards, is then laid on top of the solution and the edge of the filter is lowered at an angle of about 20 degrees so that air bubbles are excluded. Solution not absorbed by the filter is then removed by allowing a tissue to contact the liquid at the edge of the filter. The slide is then placed either in an oven at 65 to 70 degress C or on a slide warmer at the same temperature, for about 10 minutes. If the slide becomes too warm, bubbles will develop. The filter collapses slowly to about 15 percent of its original thickness. The procedure leaves a thin, transparent plastic film, with particulate and fibers embedded in the upper surface.

5. *Plasma etching of the collapsed filter.* The collapsed filter on the microscope slide is placed in a plasma asher for a period of approximately 6 minutes. Because plasma ashers vary greatly in their performance, both from unit to unit and between different positions in the asher chamber, it is difficult to specify the conditions that should be used. This is one area of the method that requires further evaluation. Insufficient etching will result in a failure to expose embedded filters, and too much etching may result in loss of particulate from the surface. As an interim measure, it is recommended that the time for ashing of a known weight of a collapsed filter be established and that the etching rate be calculated in terms of micrometers per second. The actual etching time used for a particular asher and operating conditions will then be set such that a 1-micrometer layer of collapsed surface will be removed.

6. *Preparation of the carbon evaporator.* Carbon coating must be performed with a high-vacuum coating unit. Units that are based on evaporation of carbon filaments in a vacuum generated only by an oil rotary pump have not been evaluated for this application, and must not be used. The carbon rods should be sharpened with the carbon rod sharpener to necks of about 3.6 mm long and 1.0 mm in diameter. The rods are installed in the evaporator in such a manner that the points are approximately 10 to 12 cm from the surface of a microscope slide held in the rotating and tilting device.

7. *Carbon coating of collapsed and etched filter.* The glass slide holding the collapsed filter portion is placed on the rotation-tilting device, and the evaporator chamber is evacuated to a vaccum better than 0.013 Pa. The evaporation must be performed in very short bursts, separated by some seconds to allow the electrodes to cool. If evaporation is too rapid, the surface of the collapsed filter may be damaged from heating. An experienced analyst can judge the thickness of carbon film to be applied, and some tests should be made first on unused filters. If the film is too thin, large particles will be lost from the TEM specimen, and there will be few complete and undamaged grid openings on the specimen. If the coating is too thick, the carbon film may not adhere to the support mesh. Too thick a carbon film will also lead to a TEM image that is lacking in contrast, and the ability to obtain SAED patterns will be compromised. The carbon film should be as thin as possible and still retain most of the grid openings of the TEM specimen intact.

8. *Preparation of the Jaffe Washer.* The precise design of the Jaffe Washer is not considered important, so any one of the published designs may be used. The washer consisting of a simple stainless steel bridge is recommended. Several pieces of lens tissue approximately 1.0 cm x 1.5 cm are placed on the stainless steel bridge, and the washer is filled with dimethyl formamide to a level where the meniscus contacts the underside of the mesh, which results in saturation of the lens tissue. Like chloroform, dimethyl formamide is a toxic solvent, and appropriate precautions should be taken in its use.

9. *Placing of specimens into the Jaffe Washer.* The TEM grids are first placed on a piece of lens tissue so that individual grids can be picked up with tweezers.

Using a curved scalpel blade, the analyst excises three 2 to 3 mm square pieces of the collapsed, etched, and carbon-coated filter from the quarter filter. The three squares are selected close to the apex of the sector, and at two other points midway between the apex and the outer edge. Each piece of filter, carbon side up, is placed on a TEM specimen grid with the shiny side of the TEM grid facing upward, and the whole assembly is placed boldy onto the saturated lens tissue in the Jaffe Washer. The three excised squares of filter are placed on the same piece of lens tissue. Any number of separate pieces of lens tissue may be placed in the same Jaffe Washer. The lid is then placed on the Jaffe Washer, and the system is allowed to stand for several hours, preferably overnight.

I. *TEM specimen preparation from MEC filters (Method B)*— 1. This method of preparing TEM specimens from MEC filters is similar to that specified in NIOSH Method 7402 (Ref. 9).

2. Upon receipt at the analytical laboratory, and before they are taken into the clean facility or laminar flow hood, the sample cassettes must be cleaned of any contamination adhering to the outside surfaces. After the analyst has checked to ensure that the cassette is tightly sealed and the plugs are in both ends, it should be thoroughly cleaned by rinsing with water and wet-wiping and then dried with clean paper towel.

3. Remove a section from any quadrant of the sample and blank filters.

4. Place the section on a clean microscope slide. Affix the filter section to the slide with a gummed page reinforcement or other suitable means. Label the slide with a waterproof marking pen.

5. Place the slide in a petri dish which contains several paper filters soaked with 2 to 3 ml acetone. Cover the dish. Wait 2 to 4 minutes for the sample filter to fuse and clear.

Note.—The "hot block" clearing technique of Method .7400 may be used instead of steps 4 and 5.

6. Plasma Etching of the Collapsed Filter.

a. The microscope slide to which the collapsed filter pieces are attached is placed in a plasma ashers for a period of about 6 minutes. Because plasma ashers vary greatly in their performance, both from unit to unit and between different positions in the asher chamber, it is difficult to specify the conditions that should be used. This is one area of the method that requires further evaluation. Insufficient etching will result in a failure to expose embedded fibers, and too much etching may result in loss of particulate from the surface. As an interim measure, it is recommended that the time for ashing of a known weight of a collapsed filter be established, and that the etching rate be calculated in terms of micrometers per second. The actual etching time used for the particular asher and operating conditions will then be set such that a 1-micrometer layer of collapsed filter will be removed (Ref. 7 and 9).

b. Place the slide containing the collapsed filters into a low-temperature

plasma asher. Etch the filter at 100 degrees C for about 2 minutes at an oxygen pressure of 130 Pa (1 torr).

Note.—Plasma ashers may vary. Determine optimum etching time on blank filters before etching samples. Optimum etching time is determined to be half the time needed to completely ash a filter preparation.

7. Transfer the slide to a rotating stage inside the bell jar of a vacuum evaporator. Evaporate a 1 mm x 5 mm section of a graphite rod onto the cleared filter. Remove the slide to a clean, dry, covered petri dish.

8. Prepare a second petri dish as a Jaffe wick washer with the wicking substrate prepared from filter or lens paper placed on top of a 12 mm thick disk of clean spongy polyurethane foam. Cut a V-notch on the edge of the foam and filter paper. Use the V-notch as a reservoir for adding solvent.

Note.—The wicking substrate should be thin enough to fit into the petri dish without touching the lid.

9. Place carbon-coated TEM grids face up on the filter or lens paper. Label the grids by marking with a pencil on the filter paper or by putting registration marks on the petri dish lid and marking with a waterproof marker on the dish lid. In a fume hood, fill the dish with acetone until the wicking substrate is saturated.

Note.—The level of acetone should be just high enough to saturate the filter paper without creating puddles.

10. Remove about a quarter section of the carbon-coated filter samples from the glass slides using a surgical knife and tweezers. Carefully place the section of the filter, carbon side down, on the appropriately labeled grid in the acetone-saturated petri dish. When all filter sections have been transferred, slowly add more solvent to the wedge-shaped trough to bring the acetone level up to the highest possible level without disturbing the sample preparations. Cover the petri dish. Elevate one side of the petri dish by placing a slide under it. This allows drops of condensed solvent vapors to form near the edge rather than in the center where they would drip onto the grid preparation.

V. TEM Method

A. *Instrumentation.* 1. 80–120 kV Analytical TEM, preferably with STEM (Scanning Transmission Electron Microscopy) and with a fluorescent screen inscribed with calibrated gradations. The microscope shall be calibrated routinely (see Unit VIII.) for magnification with a standard replica grating and with a gold standard for camera length.

2. Energy Dispersive X-ray Detector mounted on TEM column and associated hardware/software to collect, save, and read out spectral information. Calibration of Multi-Channel Analyzer shall be checked regularly for A1 at 1.48 KeV and Cu at 8.04 KeV, as well as the manufacturer's procedures.

3. Specimen holder with single tilt/rotate and/or double tilt capabilities.

4. Dissecting Light Microscope with long working distance for orienting specimen.

B. *Supplies.* 1. Computer software disc for data collection.

2. Forceps, for grid handling.

3. Lint-free gloves for loading sample.

4. Blank form count sheet required and grid map optional.

5. Recording tool (pen).

C. *Procedure.* 1. Start a new Count Sheet for each sample to be analyzed. Record on count sheet: analyst's initials and date; lab sample number; client sample number; microscope identification; magnification for analysis; number of predetermined grid openings to be analyzed; and grid identification.

2. Check that the microscope is properly aligned and calibrated according to the manufacturer's specifications and instructions.

3. Use the following microscope settings: 80–120 kV, grid assessment 250X–1000X; then 15,000–20,000X screen magnification for analysis.

4. Analyze two sample grids. One-half (0.5) of the predetermined sample area to be analyzed shall be performed on one sample grid preparation and the remaining half on a second sample grid preparation.

5. Start with the first sample grid from the grid holder or plastic capsule.

6. Load the grid into its holder, with its highly reflective face upwards. Check its orientation in the light microscope. Load the specimen into the TEM.

7. Determine the Suitability of the Grid. a. Examine the grid at low magnification (<1000X) to determine its suitability for detailed study at higher magnifications.

b. Reject the grid if: (1) Less than 50 percent of the grid openings covered on the replica are intact.

(2) It is doubled or folded.

(3) It is too dark because of incomplete dissolution of the filter.

c. Individual grid openings with >5 percent openings (holes) or covered with greater than 25 percent particulate matter shall not be analyzed.

d. If the grid is rejected, load the second sample grid and start from Step 5.

e. If the grid is acceptable, continue on to Step 7 if mapping is to be used; otherwise see Step 8.

8. Grid Map (Optional). a. Set the TEM to the low magnification mode.

b. Use flat edge or finder grids for mapping. Write "flat side" in the right hand margin to indicate that the orientation was checked.

c. Index the grid openings (fields) to be counted by marking the acceptable fields for one-half (0.5) of the area needed for analysis on each of the two grids to be analyzed. These may be marked just before examining each grid opening (field), if desired.

d. Draw in any details which will allow the grid to be properly oriented if it is reloaded into the microscope and a particular field is to be reliably identified.

9. Scan the grid. a. Select a field to start the examination.

b. Choose the appropriate magnification (15,000X to 20,000X SCREEN magnification). (See Unit VIII.).

c. Scan the grid as follows. (1) At the selected magnification, make a series of parallel traverses across the field. Start at one corner and use the tilting section of the fluorescent screen as a gate or window. On reaching the end of one traverse, move the image one window and reverse the traverse.

Note.—A slight overlap should be used so as not to miss any part of the grid opening (field).

(2) Make parallel traverses until the entire grid opening (field) has been scanned.

10. Identify each structure for appearance and size.

a. Appearance and size. Any contiguous grouping of particles in which an asbestos fiber with an aspect ratio greater than or equal to 5:1 and a length greater than or equal to 0.5 micrometer detected shall be recorded on the count sheet. These will be designated asbestos structures and will be classified as fibers, bundles, clusters, or matrices. See Figure 1. Combinations such as a matrix and cluster, matrix and a bundle, or bundle and a cluster are categorized by the dominant fiber quality-cluster, bundle, and matrix, respectively. Fiber length must be recorded as to whether it is greater than or less than 5 micrometers. Not required, but useful, may be to record the fiber length in 1 micron intervals. (Identify each structure morphologically and analyze it as it enters the "window.")

Fiber. A structure having a minimum length equal to 0.5 micrometer and an aspect ratio (length to width) of 5:1 or greater and substantially parallel sides.

Note the appearance of the end of the fiber, whether it is flat, rounded or dovetailed.

Bundle. A structure composed of fibers in a parallel arrangement with each fiber closer than one fiber diameter.

Cluster. A structure with fibers in a random arrangement such that all fibers are intermixed and no single fiber is isolated from the group.

Matrix. Fiber or fibers with one end free and the other end embedded in or hidden by a particulate.

NFD. Record NFD when no fibers are detected in the field.

b. Structure Management. (1) Recognize the structure that is to be sized.

(2) Memorize its location in the "window" relative to the sides, inscribed square and to other particulates in the field, so this exact location can be found again when scanning is resumed after Steps (3), (4), and (5).

(3) Measure the structure using the scale on the screen.

(4) Record the length category and structure type classification (see Section 12e) on the count sheet after the field number and fiber number.

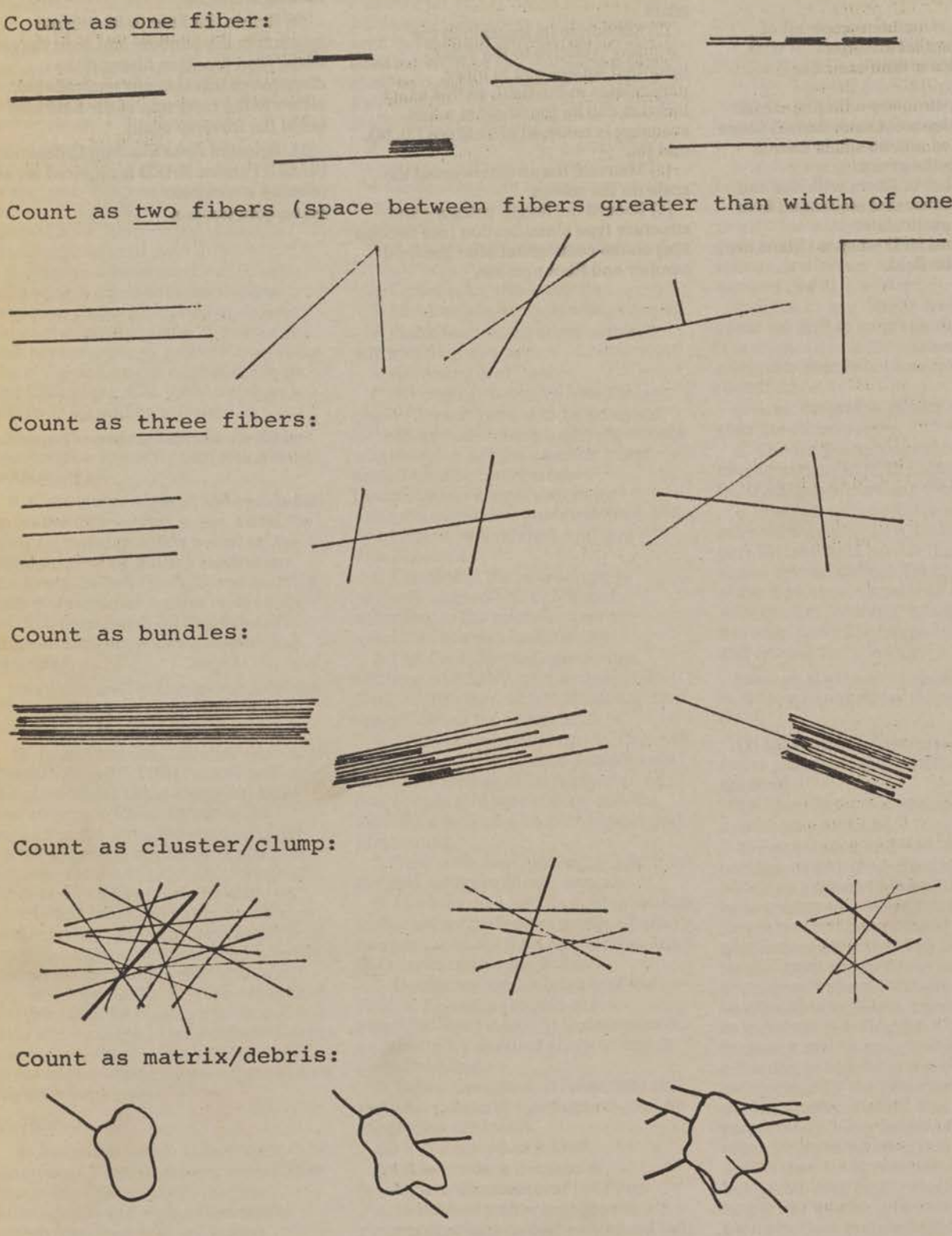
(5) Record also if the fiber contains a tubular structure.

(6) Return the fiber to its original location in the window and scan the rest of the field for other fibers; if the direction of travel is not remembered, return to the right side of the field and begin the traverse again.

11. Selected Area Electron Diffraction (SAED) Pattern. SAED is required for all counted structures.

BILLING CODE 6560-50-M

Figure 1.—*Counting guidelines used in determining asbestos structures.* (From Yamate et al., 1984)



BILLING CODE 6560-50-C

a. Center the structure, focus, and obtain a selected area electron diffraction (SAED) pattern as follows: (See Microscope Instruction Manual for more detailed instructions)

(1) Select a magnification and focus. The tilt should be at 0 degrees.

(2) Bring the desired field of view to the screen center, making sure the diffraction spot has been centered to that point during the alignment procedure.

(3) Remove the objective aperture from the beam.

(4) Insert the appropriate field limiting aperture (usually the smallest) into the beam path. The size will depend on the desired field of view.

(5) Obtain the sharpest field limiting aperture shadow.

(6) Confirm that the desired field of view is in the field limiting aperture.

(7) Overfocus the condenser to decrease illumination.

(8) Obtain a diffraction pattern.

(9) The beam stop may be used to cover the central bright spot to protect the screen.

(10) Check the pattern on the tilted screen through the binoculars. Use a camera length (C.L.) of approximately 20 mm (short camera length).

b. From a visual examination of the electron diffraction pattern, obtained with a short camera length of approximately 20 mm depending on the instrument, through the binoculars on the small screen, classify the observed structure as belonging to one of the following categories by comparing it to known patterns.

(1) *Chrysotile:* The chrysotile asbestos pattern has characteristic streaks on the layer lines other than the central line and some streaking also on the central line. There are spots of normal sharpness on the central layer line and on alternate lines (2nd, 4th, etc.) The repeat distance between layer lines is 0.53 nm and the center doublet is at 7.3 nm. The pattern should display (002), (110), (130) diffraction maxima; distances and geometry should match a chrysotile pattern and be measured semiquantitively.

(2) Amphibole Group (includes amosite, crocidolite, anthophyllite, tremolite, and actinolite): Amphibole asbestos fiber patterns show layer lines formed by very closely spaced dots, and the repeat distance between layer lines is also about 0.53 nm. Streaking in layer lines is occasionally present due to crystal structure defects.

(3) Ambiguous (incomplete spot patterns).

(4) N, if there is no pattern present. (This should be recorded under the SAED column.)

Note.—It is not possible to inspect electron diffraction patterns for some fibers. There are several reasons for the absence of a recognizable diffraction pattern. These include contamination of the fiber, interference from nearby particles, too small a fiber, too thick a fiber, and non-suitable orientation of the fiber. Some chrysotile fibers are destroyed in the electron beam resulting in patterns that fade away within seconds of being formed. Some patterns are very faint and can be seen only under the binocular microscope. For that reason, patterns should always be examined with a short camera length (approximately 20 cm) and through the binoculars on the focusing screen.

c. Recording of an SAED pattern is required for at least one structure of each classification. If the pattern is a suspected chrysotile, take a photograph of the diffraction pattern at 0 degrees tilt. If the structure is suspected to be amphibole, the sample may have to be rotated to obtain a simple geometric array of spots.

(1) Change the camera length so the photographed area of the screen is filled by the diffraction pattern.

(2) Record the following information for the photograph:

(a) On the count sheet: Record the negative number (see Note below) under the SAED column.

(b) On the negative recording log, record. i. Date.

ii. Negative number (see Note below).

iii. kV=80–120 kV.

iv. Magnification not applicable for diffraction.

v. Initials of Operator.

vi. Sample number, grid number, field number, and fiber number.

vii. Tilt used picture: 0 degrees for chrysotile.

viii. Seconds of Exposure.

ix. Camera Length (CL).

d. Return the stage to 0 degrees tilt when finished.

e. Develop the film. Compare the pattern with standard reference patterns and record the results of the verification.

12. X-ray Analysis (EDXA) (Required if the number of NA or amphiboles exceed 70 fiber per mm^2):

a. Examine each fiber for which elemental analysis is necessary (see Section 11e) with EDXA system as follows, after ascertaining that the stage is at 0 degrees tilt.

(1) In the TEM mode:

(a) Choose a magnification such that the fiber fills the "window" area.

(b) Reduce the spot size and stigmate so that the beam overlaps the fiber.

(c) Run the analysis on the EDXA system.

(2) In the STEM mode (See the TEM Instruction Booklet for details):

(a) Get the STEM image.

(b) Choose a magnification such that the fiber fills the STEM screen and position the spot over the fiber.

(c) Run the analysis on the EDXA system.

b. If the EDXA signal is weak, take another spectrum, being sure that the spot is still on the fiber.

c. If the EDXA is used for confirmation, record the spectrum on a computer disk, with proper identification as to fiber number, disk number, and file number recorded on the count sheet.

Note.—When to do EDXA:

i. Record the elemental analysis on at least one amphibole asbestos fiber for which the diffraction pattern was recorded.

ii. No background spectrum or constant acquisition time is required (although normally 60 seconds is used) since the shape of the spectrum (profile) is the criterion.

iii. Compare spectrum profiles with profiles obtained from asbestos standards. The closest match identifies and categorizes the structure.

iv. Use the following guidelines to determine when to do EDXA, after having already done SAED and visually interpreting that pattern:

A. For identifying and categorizing the amphibole structure, analyze ALL confirmed amphiboles by the EDXA.

B. For identifying and categorizing the ambiguous structure, analyze ALL by the EDXA.

13. Record the following on the count sheet:

a. Field: List field number.

b. Fiber:

(1) If no fibers are found in the field, record "NFD."

(2) If fibers, bundles, clusters, and/or matrices are found, then list them in consecutive numerical order, starting over with each field.

c. Length: Record length category of asbestos fibers that were examined.

d. Fiber Type: Positive identification of asbestos fibers is required by the method. At least one diffraction pattern of each fiber type on the sample must be recorded and compared with a standard diffraction pattern. Use the following designations. To take into account the wide variation in operator skills and equipment and also to assist in the interpretation of fibers counts, fiber identifications shall be reported according to a defined set of codes which are shown in Table III. These codes allow those using the data to determine the basis on which a fiber was identified and how certain the identification is for the fiber. For each

asbestos fiber reported, both a morphological descriptor and an identification descriptor shall be specified by using the count sheet;

e. *Classification Rules.* Fibers classified as chrysotile must be identified by CD or CX. Fibers classified as amphibole must be identified by ADX or AZ. Chrysotile is identified by diffraction pattern and confirmed with Mg/Si ratio with absence of other elements from EDS. Amphibole can usually be categorized, if desired, after a SAED pattern is obtained by comparing the EDS profiles of Na, Mg, Si, Ca, and Fe with known profiles.

If the number of fibers in the nonasbestos class would cause the analysis to exceed the detection limit of the method, their identities must be confirmed by EDXA or measurement of a zone axis diffraction pattern.

Reference samples typical of minerals commonly encountered during abatement analysis must be used in training operators. These include gypsum, calcite, dolomite, quartz, vermiculite, fibrous clays, talc, glass fibers, and diatoms.

f. *Morphology.* (1) Assume a single fiber, if the fiber type is identified.

(2) Indicate if a tubular structure exists inside the fiber (chrysotile as a tubular structure inside, as do some nonasbestos particulates).

g. EDXA. (1) List the disk number and file number if any spectra of the fiber were saved.

(2) Use a check mark or an "X" in this column if the elemental analysis was checked but not saved.

h. *Photograph.* List the negative number if a photograph of the sample was taken.

i. SAED:

(1) Mark an "X" if the pattern confirmed an identification, but no photograph was taken.

(2) List the negative number if the diffraction pattern was recorded.

(3) Record "N" if no pattern was found.

14. After all necessary analyses of a fiber, return the goniometer stage to 0 degrees and return the structure to its original location by recall of the original location.

15. Continue scanning until all the structures are identified, measured, analyzed, and categorized in the field.

16. Select additional fields at low magnification, scan at a chosen magnification (14,000X to 20,000X screen magnification) and analyze until the stopping rule becomes applicable.

17. Carefully record all data as it is being collected, and check it for accuracy.

18. After finishing with a grid, remove it from the microscope, and replace it in the appropriate grid holder. Sample grids must be stored for a minimum of 2 years from the date of the analysis; the sample cassette must be retained for a minimum of 30 days.

19. *Equipment Calibration:* In this method, calibration is necessary for the air-sampling equipment, the TEM in both microscopy and SAED modes, and the EDXA system.

a. *TEM Magnification.* The magnification at the fluorescent screen of the TEM must be calibrated at the grid opening magnification (if used) and also as the magnification used for fiber counting. This is performed with a cross grating replica. A logbook must be maintained, and the dates of calibration and the values obtained must be recorded. The frequency of calibration depends on the past history of the particular microscope; no frequency is specified. After any maintenance of the microscope that involves adjustment of the power supplies to the lenses or the high-voltage system or the mechanical disassembly of the electron optical column apart from filament exchange, the magnification must be recalibrated. Before the TEM calibration is performed, the analyst must ensure that the cross grating replica is placed at the same distance from the objective lens as the specimens are. For instruments that incorporate a eucentric tilting specimen stage, all specimens and the cross grating replica must be placed at the eucentric position.

b. Determination of the TEM magnification on the fluorescent screen:

1. Define a field of view on the fluorescent screen either by markings or physical boundaries.

Note.—The field of view must be measurable or previously inscribed with a scale or concentric circles (all scales should be metric).

2. Insert a diffraction grating replica into the specimen holder and place into the microscope. Orient the replica so that the grating lines fall perpendicular to the scale on the TEM fluorescent screen. Ensure that the goniometer stage tilt is 0 degrees.

3. Adjust microscope magnification to 10,000X or 20,000X. Measure the distance (mm) between two widely separated lines on the grating replica. Note the number of spaces between the lines. Take care to measure between the same relative positions on the lines (e.g., between left edges of lines).

Note.—The more spaces included in the measurement, the more accurate the final calculation. On most microscopes, however, the magnification is substantially constant only within the central 8–10 cm diameter region of the fluorescent screen.

4. Calculate the true magnification (M) on the fluorescent screen:

$$M = \frac{XG}{Y}$$

where:

X = total distance (mm) between the designated grating lines;
G = calibration constant of the grating replica (lines/mm);
Y = number of grating replica spaces counted along X.

c. SAED Calibration. The camera length of the TEM in SAED operating mode must be calibrated before SAED patterns on unknown samples are observed. This is achieved by using a carbon-coated grid on which a thin film of gold has been sputtered or evaporated. For photographic recording of SAED patterns, the only satisfactory record of the camera length of the pattern is by an internal standard technique. After a thin film of gold is sputtered or evaporated onto the actual sample specimen grid, a gold calibration SAED ring appears on each fiber SAED pattern recorded.

d. *Magnification calibration.* The following steps should be performed to calibrate the magnification of the EM:

1. Align the EM using the manufacturer's instructions.

2. Insert magnification-calibration grating replica (as an example a grating containing 54,864 lines per inch, or 1,260 lines per mm) in the specimen holder.

3. Switch on the beam, obtain the image of the replica grating at 20,000X magnification (or at the magnification at which the asbestos samples will be analyzed), and focus.

4. If the fluorescent screen has scribed circles of known diameters, align one line tangentially to the circumference of one circle using stage control. Count the number of lines in a diameter perpendicular to the lines. In most cases, the other end of the diameter will be between the n^{th} and $n^{th} + 1$ line. The fractional spacing can be estimated by eye. Alternatively, the separation between lines can be estimated using the scribed circles.

5. If X line spacings span Y mm on the fluorescent screen using this grating replica, the true magnification, M, is given by

$$M = \frac{Yx2160}{X}$$

The readings should be repeated at different locations on the replica, and the average of about six readings should be taken as the representative or true magnification for that setting of the EM, as in the following example:

Line spacings X	mm on screen Y	Magnification M
9.5	83	18871
9.3	80	18580
7.0	60	18514
8.8	80	19636
9.0	80	19200
9.0	80	19200
Average		19000

On most EM's with large (18-cm diameter) fluorescent screens, the magnification is substantially constant only with the central 8- to 10-cm-diameter region. Therefore, calibration measurements should be made within this small region and not over the entire screen.

e. Calibration of the EDXA System. Initially, the EDXA system must be calibrated by using two reference elements to calibrate the energy scale of the instrument. When this has been completed in accordance with the manufacturer's instructions, calibration in terms of the different types of asbestos can proceed. The EDXA detectors vary in both solid angle of detection and in window thickness. Therefore, at a particular accelerating voltage in use on the TEM, the count rate obtained from specific dimensions of fiber will vary both in absolute X-ray count rate and in the relative X-ray peak heights for different elements. Only a few minerals are relevant for asbestos abatement work, and in this procedure the calibration is specified in terms of a "fingerprint" technique. The EDXA spectra must be recorded from individual fibers of the relevant minerals, and identifications are made on the basis of semiquantitative comparisons with these reference spectra.

f. *Calibration of Grid Openings.* Measure 20 grid openings on each of 30 random 200-mesh copper grids by placing a grid on a glass slide and examining it under the PCM. Use the Walton-Beckett graticule to measure the grid opening diameters. Calculate an average field diameter from the data and use this number to calculate the field area for an average grid opening. Grids to be randomly selected from batches up to 1,000.

Note.—A grid opening is considered as one field.

g. Measurement of Grid Opening Area. The mean grid opening area must be measured for the type of specimen grids in use. This can be accomplished on the TEM at a properly calibrated low magnification or on an optical microscope at a magnification of approximately 400 by using an eyepiece fitted with a scale that has been calibrated against a stage micrometer.

19. Crystallography and Morphological Properties:

Both crystallographic and morphological characteristics of asbestos minerals can help considerably in asbestos identification and analysis. Chrysotile displays a unique narrow tubular morphology. The amphibole asbestos minerals have very similar morphologies—they are elongated along the z-axis (the chain direction) and generally lie with (100) planes approximately perpendicular to the electron beam. All varieties of amphiboles exhibit these Wadsley faults parallel to the length of the fiber.

Chrysotile possesses a cylindrical lattice which produces a unique SAED pattern. All the amphiboles, except anthophyllite, which is orthorhombic, have a monoclinic crystal structure. The amphiboles are double-chain silicates in which the fiber axis, z, has a repeat of 0.53 nm (inter-row spacing 'R' in real space). Since the other lattice parameters are also very similar, detailed zone-axis SAED analysis in more than one orientation is needed for positive identification. The nonasbestos forms of amphiboles have properties very similar to their asbestos counterparts, thus they must be distinguished from asbestos on the basis of morphology alone.

Note.—This section and sections 19–26 have been drawn from Reference 10.

20. Chemical Properties—Elemental Analysis by EDS:

Amphiboles are nonstochiometric minerals and often contain substitutional cations in varying amounts. Therefore, precise determination of their chemistry is difficult and positive identification based on chemistry alone is not reliable. This may be particularly pertinent when dealing with asbestos minerals present as minor constituents in mineral samples.

Elemental ratios, which are sometimes used to distinguish between asbestos types, often vary over wide ranges even in standard samples. The presence of gold coating, which would tend to preferentially absorb X-rays from lighter elements more than heavier elements, may make the situation even worse. In view of these ambiguities, and due to inherent practical difficulties in obtaining representative quantitative EDS elemental analyses from submicroscopic fibers, the present Level II and Level III protocols specify the use of only qualitative EDXA spectra, which are often very valuable for screening purposes in the identification procedure. For example, in distinguishing between tremolite and actinolite type of amphibole, actinolite usually contains Fe, but tremolite does not.

21. Selected Area Electron Diffraction (SAED). The method of obtaining an SAED pattern of a randomly oriented specimen is usually described in the EM instruction manual. The general directions for using the instrument to obtain and photograph SAED patterns are:

a. Select the image magnification for the selected area.

b. Bring the desired field of view to the center of the screen.

c. Insert the appropriate field-limiting aperture (according to the desired field of view) into the beam bath.

d. Obtain the sharpest field-limiting aperture shadow.

e. Confirm that the desired field of view is in the field-limiting aperture.

f. Focus the specimen image; a photograph of the selected area image can be taken.

g. Obtain the SAED pattern, remembering to retract the objective lens aperture from the beam path. The SAED pattern will be observed on the fluorescent screen.

h. Select the desired camera length (the shorter the length, the better for SAED patterns of asbestos taken at high magnification).

i. Focus the SAED pattern sharply. The beam stopper is used to intercept the bright center spot.

j. For photography, the illumination is expanded (condenser reduced) after focusing the pattern, so that the pattern becomes barely visible (indistinct). A manual time exposure of approximately 20 to 30 seconds (maybe more depending on such factors as specimen and film) is required. The beam stopper can be left in place or removed from the beam path 1 to 2 seconds before closing the shutter. A double exposure of the specimen image and the SAED pattern can be taken if particle-to-particle spacing is adequate.

22. Use of Tilting to Acquire Exact Zone-Axis SAED Patterns:

Determination of the Tilt Axis. In the side-entry type electron microscopes, the instrument tilt axis is always fixed. However, the position of the tilt axis on the viewing screen shifts with magnification. Also, there is always an angular rotation between the image and the SAED pattern. It is highly desirable

to know the location of the tilt axis on the viewing screen and its relationship vis-a-vis SAED pattern under the operating conditions to make effective use of specimen tilting for obtaining exact zone-axis orientations. The following steps can be used to locate the position of the tilt axis:

a. A gold-coated TEM grid with a standard asbestos mineral specimen on a polycarbonate replica film is placed in a tiltrotation or double-tilt holder and inserted at 0 degrees tilt into an aligned TEM set at 100 kV, 100 μA (microampere) 20,000X magnification, and 20-μm micrometer camera length operation.

b. The image is focused on the fluorescent screen, which is at approximately 16,000X magnification.

c. A circular hole in the polycarbonate replica is positioned in the center of the field of view.

d. On tilting, the circular feature changes to an ellipse with the major axis unchanged, and indicates the position (direction) of tilt axis at that magnification. The minor axis shows the perpendicular direction to the tilt axis. A high tilt angle defines the tilt axis more accurately than a small tilt angle.

e. A double-exposure photograph at 0 degrees tilt and at some high tilt angle, such as 30 degrees, is taken of the focused circular hole for reference.

Tilting—for zone-axis SAED Patterns. Quantitative SAED requires knowledge of crystallography to obtain useful zone axis diffraction patterns from which precise measurements can be made for comparison with known asbestos standards on file. Thus the method of obtaining the visual SAED pattern of randomly oriented specimens, as in Level I and Level II analysis, is modified for quantitative SAED pattern analysis. It requires tilting of the specimen to align major crystallographic directions with the electron beam. The zone axis is a line parallel to a set of intersecting crystal planes and nearly parallel to the electron beam. A zone-axis pattern thus gives regular repeat distances and even intensities of spots throughout the pattern.

Either a double-tilt or a tilt-rotation type specimen holder can be used for obtaining zone-axis patterns. A double-tilt holder is often preferred because tilt-rotation combination involves translational movement of the fiber during tilting, necessitating constant adjustment of the specimen-positioning controls to keep the specimen centered in the SAED aperture. On the other hand, it is much easier to obtain an accurate measure of the degree of tilt and perform systematic tilting with the tilt-rotation specimen holder. It is only necessary to rotate the specimen (fiber) until the tilt axis (as determined earlier) coincides with a major row of spots and then tilt until a major zone axis is parallel to the incident electron beam. Alternately, fiber axis of the fiber can be oriented either parallel or perpendicular to the tilt axis and then further tilting is used to obtain exact zone-axis orientations.

In order to avoid flip-flopping between image and diffraction modes while tilting, a recommended procedure is to defocus the diffraction pattern (the aperture becomes visible and the specimen/fiber can be seen in it) so that a double image of fiber in aperture can be seen with a poorly focused diffraction pattern. The movement of the fiber can be tracked in relation to the spot pattern tilting and kept centered in the SAED aperture by use of the specimen-positioning controls (knobs) of the microscope. Sometimes a larger aperture aids in the tracking-pattern recognition process.

An experienced electron microscopist can readily recognize the geometrical features like Kikuchi lines or Laue zones in the SAED pattern and use these to obtain the exact zone-axis SAED patterns. A detailed discussion of Kikuchi patterns and Laue zones and their utility in tilting experiments may be found in any standard textbook on electron microscopy. Use of the double-tilt specimen holder is very helpful and less tedious in tilting experiments. However, all laboratories may not have both types of specimen holders available. A skilled microscopist can use either specimen holder without much difficulty. Experience and skill are more important factors in SAED analysis than the type of specimen holder used.

23. Characteristics of SAED Patterns Encountered in Asbestos Analysis. Successful application and exploitation of SAED analysis in asbestos analysis needs prior knowledge of the general appearance and distinguishing characteristics of other SAED patterns which are often encountered. The following discussion summarizes some of the observed SAED features of asbestos and other related minerals. This discussion is by no means comprehensive and assumes that the reader is familiar with general crystallography and the nomenclature pertaining to various aspects of SAED patterns.

Minnesotaite and Stilpnomelane. These iron-rich nonasbestos layer minerals are often encountered in asbestos analysis of specimens from certain geographic locations. Particulates of these minerals lie near their basal (001) planes. Stilpnomelane and minnesotaite both possess large superlattices and their commonly observed SAED patterns are easily distinguishable from amphibole patterns. The spacing (in reciprocal space) is about half (for minnesotaite) or less than that for most amphiboles. These minerals can be readily distinquished in Level I or Level II analyses if a gold coating (optional) is applied to the specimen grids. A visual inspection of the number of rows of spots inside the (111) gold ring is sufficient to distinguish minnesotaite and stilpnomelane from amphiboles.

Chrysotile. Due to the cylindrical lattice of chrysotile the SAED pattern is unique. The SAED pattern observed is symmetrical about the cylinder axis, x, and the spacing of the rows of spots is proportional to 1/a, where a is 0.53 nm. The most distinguishing features of the pattern are the flared spots of the type (130) which occur in the first layer line. The flaring is due to the cylindrical lattice. A typical EDS spectrum shows the presence of only Mg and Si.

Amphiboles—Systematic Absences, Twinning, and Double Diffraction. The most commonly observed row of diffraction spots found in SAED patterns in amphiboles is in the y^* or b^* direction, representing the shortest reciprocal spacing between the spots (18.4 A in real space). There are many strong zone axis orientations containing the y^* row of spots. The lattice of amosite, crocidolite, tremolite, and actinolite is c-centered, and for such a lattice the h+k odd spots are absent along the y^* or b^* row. In practice, however, weak spots may be present in forbidden positions due to the presence of thin twinning on (100), which cause streaking parallel to a^*. Often, reciprocal nets from both twins are present in the same SAED pattern. In a twinned crystal, the number of important diffraction nets containing b^* is doubled, leading to the observation that the diffraction patterns appear insensitive to tilt.

In some cases SAED patterns can contain spots from both twin individuals which overlap. However, not all the spots present in the composite SAED patterns are generated by the overlapping nets; some spots may be present because of double diffraction where a diffracted beam from one twin becomes the transmitted beam when it enters the other twin.

The purpose of the above discussion is to point out that although many complications exist in the analysis of SAED patterns, these can be overcome; in a good goniometric tilting stage most

amphiboles can be identified by SAED analysis.

Amosite. The nearest reciprocal lattice section to the (100) direct lattice plane in amosite is (301)* and it is also the most commonly observed section. Due to the presence of the thin (100) twins, this section closely resembles (100)*.

Typical EDXA spectra from amosite fibers show mainly Si and Fe with smaller amounts of Mg and Mn. Mn is frequently observed as a substitutional cation in amosite.

Crocidolite. Most of the commonly observed patterns are asymmetrical and cannot be indexed easily. However, they all show rows of spots separated by a reciprocal repeat (R) corresponding to the fiber axis (0.53 nm).

The main elements observed in typical EDXA analysis are Mg, Si, Ca, and Fe. Na, which is usually present in crocidolite, may not be detected in gold-coated specimens because of absorption, or because of overlapping secondary peaks from the copper grid.

Tremolite-Actinolite. Tremolite and actinolite show a variety of SAED patterns which have very similar appearances. In actinolite some of the Mg is replaced by Fe, with the result that interplanar d-spacings of actinolite are slightly larger than tremolite. In both tremolite and actinolite, the main elemental constituents are Mg, Si, and Ca. Actinolite also contains some Fe.

Anthophyllite. Even though anthophyllite has an orthorhombic crystal structure, its commonly observed patterns are similar to the monoclinic amphiboles. Anthophyllite fibers dehydrate more easily in an electron beam and are, therefore, more difficult to study.

EDS elemental analysis shows the main constituents to be Si and Mg with a small amount of Fe.

24. Determination of Camera Constant and SAED Pattern Analysis:

A thin film of gold is evaporated on the specimen TEM grid to obtain zone-axis SAED patterns superimposed with a ring pattern from the polycrystalline gold film. Since d-spacings corresponding to identifiable gold rings are known, these can be used as an internal standard in measuring unknown d-spacings on an SAED pattern from a fiber. The precision of measurement is as good as the quality of the photograph (or negative) and usually the measurements should be in the order of 0.1–0.2 mm with an angular tolerance of 0.5–1.5 degrees. The measurements can be made by several methods: manually with a ruler, with a mechanical aid, or a densitometer, etc. The patterns can be read directly on the developed negative or on an enlarged nonglossy print.

In practice, it is desirable to optimize the thickness of the gold film so that only one or two sharp rings are obtained on the superimposed SAED pattern. Thicker gold film would normally give multiple gold rings, but it will tend to mask weaker diffraction spots from the unknown fibrous particulates. Since the unknown d-spacings of most interest in asbestos analysis are those which lie closest to the transmitted beam, multiple gold rings are unnecessary on zone-axis SAED patterns.

25. Determination of Camera Constant Using Gold Rings:

An average camera constant using multiple gold rings can be determined as explained below. However, in practice, in most cases determination of the average camera constant is not necessary and thicker gold films are not desirable. The camera constant, CC, is one-half the diameter, D, of the rings times the interplanar spacing, d, of the ring being measured and is expressed as:

$$CC\ (mm\ \text{Å}) = \frac{D(mm)}{2} \times d(\text{Å})$$

The value of d for each ring can be obtained from the JCPDS file.

a. Measure the diameters (two perpendicular locations of the gold rings in mm) as precisely as possible.

b. Measure as many distinct rings as possible to minimize systematic errors.

c. Example: if the measured values in mm are D_1, D_2, D_3, D_4, and D_5, these will represent, respectively, d-spacings of

$$\frac{4.079}{\sqrt{3}},\ \frac{4.079}{2},\ \frac{4.079}{\sqrt{8}},\ \frac{4.079}{\sqrt{11}},\ \text{and}\ \frac{4.079}{\sqrt{12}}\ \text{Å}$$

d. The camera constants will be:

$$CC_1 = \frac{D_1}{2} \times \frac{4.079}{\sqrt{3}} = \frac{D_1}{2} \times 2.355$$

$$CC_2 = \frac{D_2}{2} \times \frac{4.079}{2} = \frac{D_2}{2} \times 2.04$$

$$CC_3 = \frac{D_3}{2} \times \frac{4.079}{\sqrt{8}} = \frac{D_3}{2} \times 1.442$$

$$CC_4 = \frac{D_4}{2} \times \frac{4.079}{\sqrt{11}} = \frac{D_4}{2} \times 1.23$$

$$CC_5 = \frac{D_5}{2} \times \frac{4.079}{\sqrt{12}} = \frac{D_5}{2} \times 1.178$$

e. The camera constant for the SAED pattern is the average of CC_1, CC_2, CC_3, CC_4, and CC_5. The following Table presents an example of camera-constant determination.

DETERMINATION OF CAMERA CONSTANT (EXAMPLE)

Ring No.	D_1 readings (mm)	Mean D_1 (mm)	d-spacing, d_1 (Å)	Camera constant $C_1 = D_1/2 \times d_1$
1	23.0, 22.0	22.5	2.355	26.5
2	27.4, 27.6	27.5	2.04	28.0
3	37.8, 38.2	38.0	1.44	27.4
4	44.6, 45.4	45.0	1:23	27.7

Mean Value of Camera Constant $= \frac{C_1}{n} = \frac{26.5 + 28.0 + 27.4 + 27.7}{4} = 27.4$ (mm Å)

25. Measurement of d-Spacings and Interplanar Angles. The gold film, because of its small, randomly oriented crystallites, produces a ring pattern superimposed on the SAED pattern from the fibers. The diameters of the gold rings correspond to known values of d-spacings, and this provides an internal standard to correct for inherent uncertainties present due to variations in instrumental and/or operating conditions. Since the d-spacings of interest on SAED patterns are usually the ones that lie closest to the center spot (transmitted beam), a camera constant measured from the first gold ring in the direction of measurement of d-spacings will usually give better accuracy in computed spacings than the use of an average camera constant. This method will account for any distortions in the symmetry of the spots within the circular pattern of the gold rings. These rows of spots contain information about the two sets of planes in the crystal structure and the angle between them. The following procedure outlines the steps necessary to obtain the distances between planes (d-spacings) and the corresponding interplanar angle, Θ:

a. From the spot pattern, determine the row with spots most closely spaced, and designate this as a horizontal row. Draw a fine line to show the row through the origin, and designate this the zeroeth row. Draw fine lines to show the first and succeeding horizontal rows. For a few horizontal rows, measure the mean spacing between adjacent spots (or the minimum vector):

$$X_1 = \frac{\text{Distance between spots m units apart}}{m}$$

where m is chosen as an optimum number to minimize measurement errors. The mean horizontal spot distance, X, equals the summation of X_1 divided by the number, n, of rows measured. The d-spacing in A corresponding to this vector is the camera constant divided by X, and is labeled d_2. The following table presents an example of spot spacing measurement within a horizontal row.

b. The perpendicular distance between two adjacent horizontal rows is similarly measured. This interrow spacing, Z, is the mean separation between horizontal rows, and equals the distance between a number of rows divided by the number of spaces. This distance is an additional vector for comparison that coincides with the slant vector, d_1-spacing, when angle $\Theta_{1,2}$ is 90 degrees. The row-spacing (R) equals the camera constant divided by Z. The following table presents an example of perpendicular spacing between horizontal rows.

c. To obtain the d_1-spacing and corresponding angle $\Theta_{1,2}$, a perpendicular is drawn to the zeroeth horizontal row through the origin. A line is drawn to the first spot to the right of the perpendicular in the first row and extended through the succeeding rows. This line, called the slant vector, forms the acute angle $\Theta_{1,2}$. The mean spacing, Y, between spots on the slant vector can be measured by dividing the maximum distance between spots by the number of spaces between them, or by calculating from the interrow spacing:

$$Y = \frac{R}{\sin \Theta_{1,2}}$$

The d-spacing in A corresponding to this vector is the camera constant, CC, divided by Y and leveled d_1.

$$d_1(\text{Å}) = \frac{CC \times \sin \Theta_{1,2}}{R} = \frac{CC}{Y}$$

In some cases, the interplanar angle $\Theta_{1,2}$ may be more than 90 degrees.

Summary of Data From Each SAED Pattern:

(1) The camera constant, CC, as determined from the gold rings, normalizes the distances on the SAED pattern regardless of such factors as magnification and tilting.

DETERMINATION OF SPOT SPACINGS (EXAMPLES)

Reading	Separation (mm)	Mean spacing Units	X_1(Å)
Spot spacing within a horizontal row, d_2:			
1	49	16	3.006
2	42.7	14	3.05
3	--	--	--
			3.028 = Mean
			d-spacing = $\frac{27.4}{3.028}$ = 9.05 Å
Perpendicular spacing between horizontal rows, R:			
1	43	8	5.0375
--	--	--	--
--	--	--	--
			5.0375 = Mean
			d-spacing, R = $\frac{27.4}{5.0375}$ = 5.44 Å

Note: It is preferable that the camera constant values used in computing d-spacings are measured from the first one or two gold ring diameters in the direction of d-spacing measurement.

(2) The parameters of interest are:

(a) d-spacing of spots in a horizontal row: $CC/X=d_2$

(b) d-spacing of spots in the slant vector: $CC/Y=d_1$

(c) angle $\Theta_{1,2}$ formed between a horizontal row and slant vector

(d) d-spacing corresponding to row separation as an additional parameter of interest: $CC/Z=R$.

It should be noted that the use of camera constant in the form used here in calculating d_1, d_2, and R, which are measured in reciprocal space on SAED patterns, automatically converts the calculated numbers into real space spacings, which are then compared to those from a suitable standard file.

26. Identification of Unknown Fibers:

Unknown d-spacings (d_1 and d_2), interrow spacing (R), and interplanar angles (Θ) measured from zone-axis SAED patterns of unknown fibers are compared with corresponding known values tabulated in JCPDS powder diffraction files, or those computed using lattice parameters and crystal structures of candidate asbestos minerals, or with the values contained in an internally developed file from standard specimens of candidate minerals. The following table is an example of the IITRI standards file.

Unknowns are matched as closely as possible to the file parameters for positive identification. However, considerable care and competent judgment are required in Level III confirmatory analysis. For example, amphiboles are usually nonstochiometric minerals, and thus a perfect match may not be possible between the d-spacings and interplanar angles determined from unknown fibers and those available from standard minerals. JCPDS Powder Diffraction files do not list interplanar angles. Since amphiboles have low-symmetry crystal structures, tabulated values of d-spacings and interplanar angles would be extensive and very expensive to generate, and to get an accurate match may not be possible because these tables are derived assuming certain lattice parameters which may not be the same as those of the unknown fibers being analyzed. Given these inherent uncertainties, it would seem that use of internally developed SAED files consisting of several readily accessible orientations (by virtue of natural habit of amphibole fibers) from standard amphibole species could eliminate a lot of tedious unnecessary work and yet provide reliable data for comparison and identification of unknown fibers.

In practice, SAED analysis combined with qualitative EDS analysis may help resolve certain cases where a close match in d-spacings and interplanar angles is not possible. For difficult specimens or SAED patterns of controversial nature, a second opinion may prove useful.

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COMPARISON OF d-SPACINGS FROM SAED FILE AND POWDER DIFFRACTION FILE (EXAMPLE)

Amphibole Type	Zone Axis	Internal Standard File Data			Interrow spacing, R (Å)	Powder Diffraction File Data (1975)		
		d_1 (Å)	d_2 (Å)	(deg)		d_1 (Å)	d_2 (Å)	File Index No.
Amosite	[100]	5.3	9.14	90.0	5.3	5.22	9.20	17-725
	[30$\bar{1}$]	1.79	9.26	84.0	--	1.76	9.20	17-725
	[101]	4.88	9.23	74.0	5.17	4.84	9.20	17-725
	[$\bar{1}$01]	4.14	9.11	78.0	4.21	4.10	9.20	17-725
	[$\bar{3}$10]	5.22	5.13	95.0	--	5.22	5.12	17-725
Crocidolite	[100]	5.22	8.97	90.0	5.22	5.20	9.02	19-1061
	[101]	4.94	9.05	75.0	5.19	5.89	9.02	19-1061
	[$\bar{1}$10]	4.79	8.19	79.0	5.23	4.89	8.40	19-1061
	[30$\bar{1}$]	1.75	8.97	83.5	--	1.76	9.02	19-1061
	[$\bar{3}$10]	5.12	5.12	96.0	--	--	--	19-1061
Tremolite	[100]	5.04	9.03	90.0	--	5.07	8.98	13-437
	[101]	4.83	9.03	75.0	--	4.87	8.98	13-437
	[$\bar{2}$0$\bar{1}$]	2.59	8.97	80.5	--	2.59	8.98	13-437
	[30$\bar{1}$]	1.72	8.98	83.5	--	1.69	8.98	13-347
Anthophyllite	[100]	--	--	90.0	5.24	5.28	8.90	9-455
	[$\bar{1}$42]	4.56	4.56	60.0	--	4.50	4.50	9-455

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Table III—Fiber Identification Codes

A. Classification of Fibers With Tubular Morphology

CM—Fiber with chrysotile morphology that may be used only after concentration of chrysotile exceeds 70f/mm².

CD—Fiber with chrysotile morphology that yielded a chrysotile SAED pattern.

CX—Fiber with chrysotile morphology that yielded an EDXA spectrum appropriate for chrysotile.

CDX—Fiber with chrysotile morphology that yielded a chrysotile SAED pattern and an EDXA spectrum appropriate for chrysotile.

B. Classification of Fibers Without Tubular Morphology

UF—Unidentified fiber suspected to be amphibole.

AD—Fiber classified as amphibole by random orientation SAED (shows layer SAED pattern of 0.53-nm-spacing).

AX—Fiber classified as amphibole by semiquantitative EDXA (spectrum has elemental components and peak heights consistent with those of an amphibole).

ADX—Fiber classified as amphibole by random orientation SAED and by semiquantitative EDXA (shows layer SAED pattern of 0.53 nm spacing, and spectrum has elemental components and peak heights consistent with those of an amphibole).

AZ—Fiber classified as amphibole by recording and measurement of one zone-axis SAED pattern.

AZX—Fiber classified as amphibole by one zone-axis SAED pattern and by semiquantitative EDXA.

AZZ—Fiber classified as amphibole by two zone-axis SAED patterns, consistent interaxial angle, and semiquantitative EDXA.

Note.—Fibers cannot be placed into the last two classifications at the microscope during fiber counting.

C. Classification of Nonasbestos Fibers

ND—Fiber with nonasbestos morphology that yielded a nonasbestos SAED pattern.

NX—Fiber with nonasbestos morphology that yielded an EDXA spectrum appropriate for nonasbestos.

NDX—Fiber with nonasbestos morphology that yielded a nonasbestos SAED pattern and an EDXA spectrum appropriate for nonasbestos.

VI. Sample Analytical Sequence

Under the present sampling requirements at least 13 samples are collected for the clearance testing of an abatement site. These include 5 abatement area samples, 5 ambient samples, 2 field blanks, and 1 sealed blank. While all samples must be taken, not all samples need necessarily be analyzed to allow sound decision-making on the airborne asbestos levels of an area. The sample type and its analytical value will indicate the relative value of knowing the asbestos concentrations for the other sample types. For example, if all abatement area samples were analyzed first and each was found to be below the acceptance criteria, then there would be no value in analyzing the ambient control samples or blanks. Final clearance could be granted on the basis of finding all interior samples below the acceptance limits. If instead the sample had been above the limit, then the values on the field blanks and the ambient control samples would be of pivotal decision-making importance. By prioritizing the analysis of those samples with the highest information potential under a given circumstance, one maximizes the impact and minimizes the cost. A sample sequencing method is presented in Figure 2 and in the text below to take advantage of this possibility.

1. Carry out visual inspection of worksite prior to air monitoring.

2. Collect a minimum of 5 air samples inside the worksite and 5 samples outside the worksite. The indoor and outdoor samples shall be taken during the same time period.

3. Analyze the abatement area samples according to this protocol. The analysis must meet the 0.005 f/cm³ analytical sensitivity.

4. Calculate the average airborne asbestos concentration of the abatement area samples.

5. If the average is less than 70 f/mm², the samples are indistinguishable from background and meet the clearance standard. No further analysis is required.

6. If the average is more than 70 f/mm², two options exist. The site may be recleaned or the blanks may be analyzed. If the blanks are analyzed, analyze each blank. The minimum filter area to be analyzed on each blank is 0.057 mm² (nominally ten 200-mesh grid openings).

7. If the blank(s) yields concentrations of fibers greater than 70 f/mm², then there is evidence of procedural contamination. The contamination problem must be resolved and new sample collected.

(a) Abatement area blank indicates possible contamination from supplies and/or field handling.

(b) Ambient area blank indicates possible contamination from supplies and/or handling.

(c) Sealed blank indicates possible contamination from supplies.

8. If the blank(s) yield concentrations less than 70 f/mm², then proceed to analyze the five ambient samples.

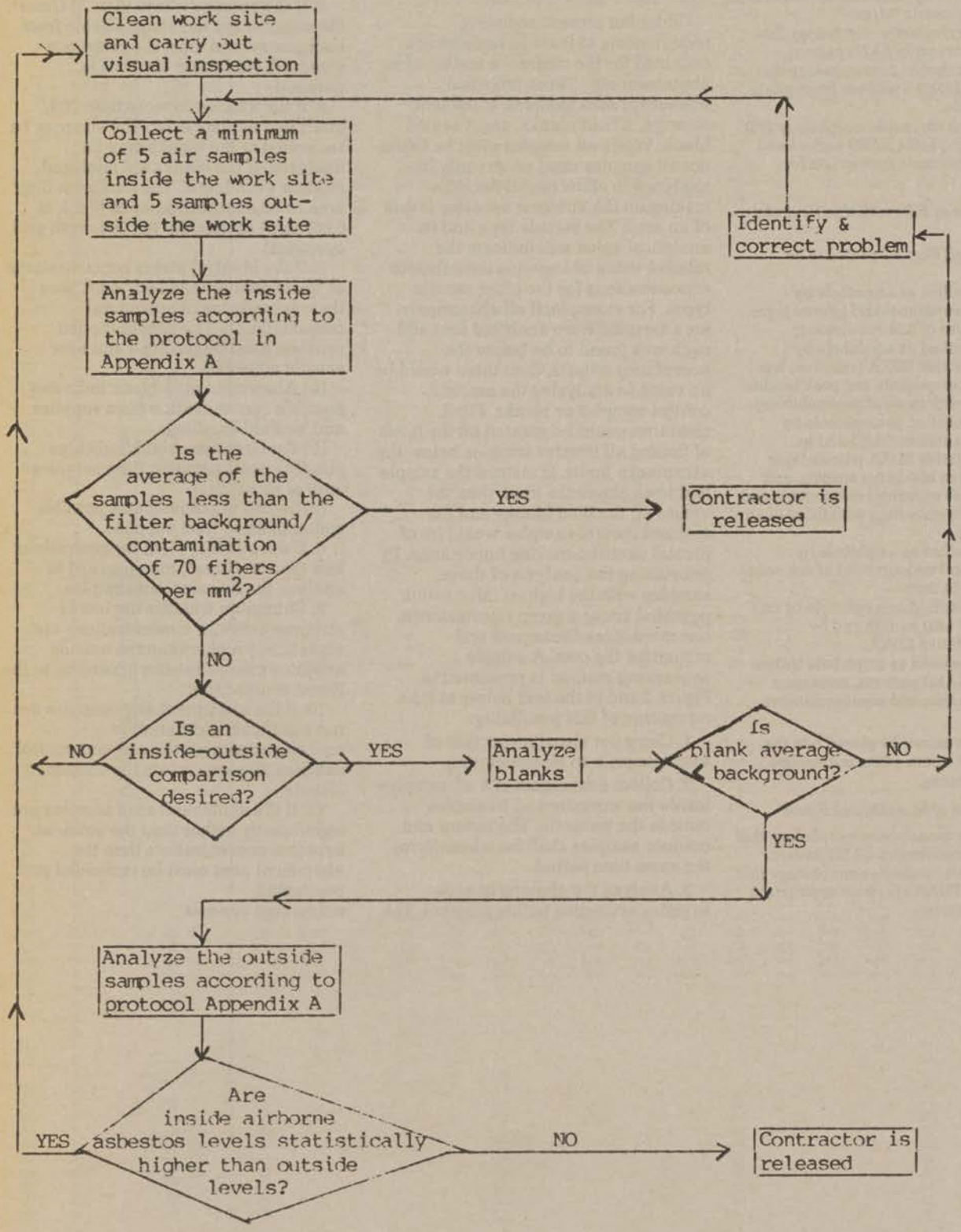
9. Determine whether the inside airborne asbestos concentrations are statistically higher than the outside asbestos concentrations according to the Z-test comparison.

10. If the abatement area samples are not significantly different in concentration from the ambient control samples, the area meets the clearance criteria.

11. If the abatement area samples are significantly higher than the ambient asbestos concentration, then the abatement area must be recleaned and resampled.

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FIGURE 2 --
FLOW CHART FOR DETERMINING COMPLETION OF A REMOVAL RESPONSE ACTION



CALCULATION OF Z-TEST WORKSHEET

Inside Work Site ID No. _____

Outside Work Site ID No. _____

n_i = number of inside samples = _____

n_o = number of outside samples = _____

	INSIDE SAMPLES (f/cc)		LOG INSIDE SAMPLES		OUTSIDE SAMPLES (f/cc)		LOG OUTSIDE SAMPLES
(1)	log (_____)	=	_____	log (_____)	=	_____	
(2)	log (_____)	=	_____	log (_____)	=	_____	
(3)	log (_____)	=	_____	log (_____)	=	_____	
(4)	log (_____)	=	_____	log (_____)	=	_____	
(5)	log (_____)	=	_____	log (_____)	=	_____	
	Total	=	_____	Total	=	_____	
	$\overline{Y}_i$ = Total ÷ n_i	=	_____	$\overline{Y}_o$ = Total ÷ n_o	=	_____	

(a) $\overline{Y}_i - \overline{Y}_o$ = _____

(b) $\frac{1}{n_i} + \frac{1}{n_o}$ = _____ , $\sqrt{\frac{1}{n_i} + \frac{1}{n_o}}$ = _____

(c) $0.8 \times \sqrt{\frac{1}{n_i} + \frac{1}{n_o}}$ = _____

$$z = \frac{\overline{Y}_i - \overline{Y}_o}{0.8\sqrt{\frac{1}{n_i} + \frac{1}{n_o}}} = (a) \div (c) = _____$$

Conclusion: _____ Work site fails if $z > 1.65$

_____ Work site passes if $z < 1.65$

LABORATORY LETTERHEAD

EXAMPLE FOR REPORTING ANALYTICAL RESULTS

Laboratory ID	Client ID	FILTER MEDIA DATA				Analyzed Area, mm^2	Sample Volume, cc
		Type	Diameter, mm	Effective Area, mm^2	Pore Size, µm		

INDIVIDUAL ANALYTICAL RESULTS

Laboratory ID	Client ID	# Asbestos Fibers	Analytical Sensitivity, f/cc	CONCENTRATION	
				Fibers/mm^2	Fibers/cc

RESULTS OF Z-TEST: _____

The analysis was carried out according to the approved TEM method. This laboratory is in compliance with the quality assurance as specified by the method.

_____
Authorized Signature

TABLE 3

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VIII. Quality Control/Quality Assurance Procedures (Data Quality Indicators)

Monitoring the environment for airborne asbestos requires the use of sensitive sampling and analysis procedures. Because the test is sensitive, it may be influenced by a variety of factors. These include the supplies used in the sampling operation, the performance of the sampling, the preparation of the grid from the filter and the actual examination of this grid in the microscope. Each of these unit operations must produce a product of defined quality if the analytical result is to be a reliable and meaningful test result. Accordingly, a series of control checks and reference standards are performed along with the sample analysis as indicators that the materials used are adequate and the operations are within acceptable limits. In this way the quality of the data is defined and the results are of known value. These checks and tests also provide timely and specific warning of any problems which might develop within the sampling and analysis operations. A description of these quality control/quality assurance procedures is summarized in Table IV and the text below.

1. Prescreen the loaded cassette collection filters to assure that they do not contain concentrations of asbestos which may interfere with the analysis of the sample. A filter blank average of less than 0.5 asbestos fibers per 10 grid openings is acceptable for this method.

2. Calibrate sampling pumps and their flow indicators over the range of their intended use with a recognized standard. Assemble the sampling system with a representative filter—not the filter which will be used in sampling—before and after the sampling operation.

3. Record all calibration information with the data to be used on a standard sampling form.

4. Insure that the samples are stored in a secure and representative location.

5. Insure that mechanical vibrations from the pump will be minimized.

6. Insure that a constant flow of negative pressure is delivered by the pump by installing a damping chamber if necessary.

7. Open a loaded cassette momentarily at one of the indoor sampling sites when sampling is initiated. This sample will serve as an indoor field blank.

8. Open a loaded cassette momentarily at one of the outdoor sampling sites when sampling is initiated. This sample will serve as an outdoor field blank.

9. Carry a sealed blank into the field with each sample series. Do not open this cassette in the field.

10. Perform a leak check of the sampling system at each indoor and outdoor sampling site by activating the pump with the closed sampling cassette in line. Any flow indicates a leak which must be eliminated before initiating the sampling operation.

11. Insure that the sampler will be turned upright before interrupting the pump flow.

12. Check that all samples are clearly labeled and that all pertinent information has been enclosed before transfer of the samples to the laboratory.

13. When the samples arrive at the laboratory, check the samples and documentation for completeness and requirements before initiating the analysis.

14. Check all laboratory reagents and supplies for acceptable asbestos background levels.

15. Conduct all sample preparations in a clean room environment monitored by laboratory blanks and special testing after cleaning or service in the area.

16. Prepare multiple grids of each sample for possible duplicate count comparison.

17. Provide laboratory blanks with each sample batch. Maintain a moving average of these results. If there are more than 3 fibers per 10 grid openings the system will be checked for possible sources of contamination.

18. Check for recovery of asbestos from cellulose ester filters submitted to plasma asher treatment by including a known asbestos particulate sample with every 25th numbered sample. Recoveries of 75 percent or greater are acceptable.

19. Check for asbestos carryover in the plasma asher by including a blank alongside the positive control sample.

20. Perform a systems check on the transmission electron microscope each time it is used.

21. Make periodic performance checks of magnification selected area electron diffraction and energy dispersive X-ray systems as set forth in Table IV.

22. Insure qualified operator performance by evaluation of replicate counting, duplicate analysis and standard sample comparisons as set forth in Table IV.

23. Validate all data entries.

24. Recalculate a percentage of all computations and automatic data reduction steps as specified in Table IV.

25. Use the outdoor control samples for comparison with the abatement area samples for clearance approval if the abatement area samples exceed the permissible limits.

The outline of quality control procedures presented above is viewed as the minimal required to assure the data quality produced for clearance testing of an asbestos abated area. Additional information may be gained by other control tests. Specifics on those control procedures and options available for environmental testing can be obtained by consulting references 6, 7, and 11.

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TABLE IV -- Summary of DQOs

This table summarizes the data quality objectives from the performance of this method in terms of precision, accuracy, completeness, representativeness, and comparability. These objectives are assured by the periodic control checks and references checks listed here and described in the text of the method.

Unit Operation	QC Check	Frequency	Conformance Expectation
Sampling materials	Sealed blank	1 per I/O site	95%
Sample procedures	Field blanks	2 per I/O site	95%
	Pump calibration	Before and after each field series	90%
Sample receiving	Review of receiving report	Each sample	95% complete
Sample custody	Review of chain-of-custody record	Each sample	95% complete
Sample preparation	Supplies and reagents	On receipt	Meet specs. or reject
	Grid opening size	20 openings/20 grids/lot of 1000 or 1 opening/sample	100%
	Special clean area monitoring	After cleaning or service	Meet specs. or reclean
	Laboratory blank	1 per prep series or 10%	Meet specs or reanalyze series
	Plasma asher blank	1 per 20 samples	75%
	Sample recovery check	1 per 20 samples	75%
	Multiple preps (3 per sample)	Each sample	One with cover of 15 complete grid sqs.
Sample analysis	System check	Each operator	Each day
	Alignment check	Each operator	Each day
	Magnification calibration with low and high standards	Each month or after service	95%
	SAED calibration by gold standard	Weekly	95%
	EDS calibration by copper line	Daily	95%
Performance check	Laboratory blank (measure of cleanliness)	Prep 1 per series or 10% read 1 per 25 samples	Meet specs or reanalyze series
	Replicate counting (measure of precision)	1 per 100 samples	1.5 x Poisson Std. Dev.
	Duplicate analysis (measure of reproducibility)	1 per 100 samples	2 x Poisson Std. Dev.
	Known samples of typical materials (working standards)	Training and for comparison with unknowns	100%
	Analysis of NBS SRM 1876 and/or RM 8410 (measure of accuracy and comparability)	1 per analyst per year	1.5 x Poisson Std. Dev.
	Data entry review (data validation and measure of completeness)	Each sample	95%
Calculations and data reduction	Hand calculation of automated data reduction procedure or independent recalculation of hand-calculated data	1 per 100 samples	85%
Site evaluation	Abatement area versus ambient	When abatement area is >0.02 f/cc	100%

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IX. References

(1) "Guidance for Controlling Asbestos Containing Materials in Buildings," EPA 560/5–85–024, June 1985.

(2) "Measuring Airborne Asbestos Following an Abatement Action," USEPA, Office of Toxic Substances, EPA 600/4–85–049, 1985.

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(5) "Quality Assurance Handbook for Air Pollution Measurement Systems. Ambient Air Methods," EPA 600/4–77–027a, USEPA, Office of Research and Development, 1977.

(6) Method 2A Direct Measurement of Gas Volume Through Pipes and Small Ducts." 40 CFR Part 60, Appendix A.

(7) Burdette, G.J., Health & Safety Exec. Research & Lab. Services Div., London, "Proposed Analytical Method for Determination of Asbestos in Air."

(8) Chatfield, E.J., Chatfield Tech. Cons., Ltd., Clark, T., PEI Assoc., "Standard Operating Procedure for Determination of Airborne Asbestos Fibers by Transmission Electron Microscopy Using Polycarbonate Membrane Filters," WERL SOPO 87–1, March 5, 1987.

(9) NIOSH 7402 Method for Asbestos Fibers, 12–11–86 Draft.

(10) Yamate, G., Agarwal, S.C., Gibbons, R.D., IITRI, "Methodology for the Measurement of Airborne Asbestos by Electron Microscopy," Draft report, Contract 68–02–3266, July 1984.

(11) "Guidance to the Preparation of Quality Assurance Project Plans," USEPA, Office of Toxic Substances, 1984.

Appendix B to Subpart E—Work Practices and Engineering Controls for Small-Scale, Short-Duration Operations Maintenance and Repair (O&M) Activities Involving ACM

This appendix is not mandatory, in that local education agencies may choose to comply with all the requirements of 40 CFR 763.121. Section 763.91(b) extends the protection provided by EPA in its 40 CFR 763.121 for worker protection during asbestos abatement projects to employees of local education agencies who perform small-scale, short-duration operations, maintenance and repair (O&M) activities involving asbestos-containing materials and are not covered by the OSHA asbestos construction standard at 29 CFR 1926.58 or an asbestos worker protection standard adopted by a State as part of a State plan approved by OSHA under section 18 of the Occupational Safety and Health Act. Employers wishing to be exempt from the requirements of § 763.121 (e)(6) and (f)(2)(i) may instead comply with the provisions of this appendix when performing small-scale, short-duration O&M activities.

Definition of Small-Scale, Short-Duration Activities

For the purposes of this appendix, small-scale, short-duration maintenance activities are tasks such as, but not limited to:

1. Removal of asbestos-containing insulation on pipes.
2. Removal of small quantities of asbestos-containing insulation on beams or above ceilings.
3. Replacement of an asbestos-containing gasket on a valve.
4. Installation or removal of a small section of drywall.
5. Installation of electrical conduits through or proximate to asbestos-containing materials.

Small-scale, short-duration maintenance activities can be further defined, for the purposes of this subpart, by the following considerations:

1. Removal of small quantities of asbestos-containing materials (ACM) only if required in the performance of another maintenance activity not intended as asbestos abatement.
2. Removal of asbestos-containing thermal system insulation not to exceed amounts greater than those which can be contained in a single glove bag.
3. Minor repairs to damaged thermal system insulation which do not require removal.
4. Repairs to a piece of asbestos-containing wallboard.
5. Repairs, involving encapsulation, enclosure or removal, to small amounts of friable asbestos-containing material only if required in the performance of emergency or routine maintenance activity and not intended solely as asbestos abatement. Such work may not exceed amounts greater than those which can be contained in a single prefabricated mini-enclosure. Such an enclosure shall conform spatially and geometrically to the localized work area, in order to perform its intended containment function.

OSHA concluded that the use of certain engineering and work practice controls is capable of reducing employee exposures to asbestos to levels below the final standard's action level (0.1 f/cm^3) (See 51 FR 22714, June 20, 1986). Several controls and work practices, used either singly or in combination, can be employed effectively to reduce asbestos exposures during small maintenance and renovation operations. These include:

1. Wet methods.
2. Removal methods.
   i. Use of glove bags.
   ii. Removal of entire asbestos insulated pipes or structures.
   iii. Use of mini-enclosures.
3. Enclosure of asbestos materials.
4. Maintenance programs.

This appendix describes these controls and work practices in detail.

Preparation of the Area Before Renovation or Maintenance Activities

The first step in preparing to perform a small-scale, short-duration asbestos renovation or maintenance task, regardless of the abatement method that will be used, is the removal from the work area of all objects that are movable to protect them from asbestos contamination. Objects that cannot be removed must be covered completely with 6-mil-thick polyethylene plastic sheeting before the task begins. If objects have already been contaminated, they should be thoroughly cleaned with a High Efficiency Particulate Air (HEPA) filtered vacuum or be wet-wiped before they are removed from the work area or completely encased in the plastic.

Wet Methods

Whenever feasible, and regardless of the abatement method to be used (e.g., removal, enclosure, use of glove bags), wet methods must be used during small-scale, short-duration maintenance and renovation activities that involve disturbing asbestos-containing materials. Handling asbestos materials wet is one of the most reliable methods of ensuring that asbestos fibers do not become airborne, and this practice should therefore be used whenever feasible. Wet methods can be used in the great majority of workplace situations. Only in cases where asbestos work must be performed on live electrical equipment, on live steam lines, or in other areas where water will seriously damage materials or equipment may dry removal be performed. Amended water or another wetting agent should be applied by means of an airless sprayer to minimize the extent to which the asbestos-containing material is disturbed.

Asbestos-containing material should be wetted from the initiation of the maintenance or renovation operation and wetting agents should be used continually throughout the work period to ensure that any dry asbestos-containing material exposed in the course of the work is wet and remains wet until final disposal.

Removal of Small Amount of Asbestos-Containing Materials

Several methods can be used to remove small amounts of asbestoscontaining materials during small-scale, short-duration renovation or maintenance tasks. These include the use of glove bags, the removal of an entire asbestos-covered pipe or structure, and the construction of mini-enclosures. The procedures that employers must use for each of these operations if they wish to avail themselves of the rule's exemptions are described in the following sections.

Glove Bags

OSHA found that the use of glove bags to enclose the work area during small-scale, short-duration maintenance or renovation activities will result in employee exposure to asbestos that are below the rule's action level of 0.1 f/cm^3. This appendix provides requirements for glove-bag procedures to be followed by employers wishing to avail themselves of the rule's exemption for each activities. OSHA has determined that the use of these procedures will reduce the 8-hour time weighted average (TWA) exposure of employees involved in these work operations to levels below the action level and will thus provide a degree of employee protection equivalent to that provided by compliance with all provisions of the rule.

Glove Bag Installation

Glove bags are approximately 40-inch-wide times 64-inch-long bags fitted with arms through which the work can be performed. When properly installed and used, they permit workers to remain completely isolated from the asbestos material removed or replaced inside the bag. Glove bags can thus provide a flexible, easily installed, and quickly dismantled temporary small work area enclosure that is ideal for small-scale asbestos renovation or maintenance jobs. These bags are single-use control devices that are disposed of at the end of each job. The bags are made of transparent 6-mil-thick polyethylene plastic with areas of Tyvek [1] material (the same material used to make the disposal protective suits used in major asbestos removal, renovation, and demolition operations and in protective gloves). Glove bags are readily available from safety supply stores or specialty asbestos removal supply houses. Glove bag come pre-labelled with the asbestos warning label prescribed by OSHA and EPA for bags used to dispose of asbestos waste.

Glove Bag Equipment and Supplies

Supplies and materials that are necessary to use glove bags effectively include:

1. Tape to seal glove bag to the area from which asbestos is to be removed.
2. Amended water or other wetting agents.
3. An airless sprayer for the application of the wetting agent.
4. Bridging encapsulant (a paste-like substance for coating asbestos) to seal the rough edges of any asbestos-containing materials that remain within the glove bag at the points of attachment after the rest of the asbestos has been removed.
5. Tools such as razor knives, nips, and wire brushes (or other tools suitable for cutting wires, etc.).
6. A HEPA filter-equipped vacuum for evacuating the glove bag (to minimize the release of asbestos fibers) during removal of the bag from the work area and for cleaning any material that may have escaped during the installation of the glove bag.
7. HEPA-equipped dual-cartridge or more protective respirators for use by the employees involved in the removal of asbestos with the glove bag.

Glove Bag Work Practices

The proper use of glove bags requires the following steps:

1. Glove bags must be installed so that they completely cover the pipe or other structure where asbestos work is to be done. Glove bags are installed by cutting the sides of the glove bag to fit the size of the pipe from which asbestos is to be removed. The glove bag is attached to the pipe by folding the open edges together and securely sealing them with tape. All openings in the glove bag must be sealed with duct tape or equivalent material. The bottom seam of the glove bag must also be sealed with duct tape or equivalent to prevent any leakage from the bag that may result from a defect in the bottom seam.
2. The employee who is performing the asbestos removal with the glove bag must don at least a half mask dual-cartridge HEPA-equipped respirator; respirators should be worn by employees who are in close contact with the glove bag and who may thus be exposed as a result of small gaps in the seams of the bag or holes punched through the bag by a razor knife or a piece of wire mesh.
3. The removed asbestos material from the pipe or other surface that has fallen into the enclosed bag must be thoroughly wetted with a wetting agent (applied with an airless sprayer through the precut port provided in most gloves bags or applied through a small hole in the bag).
4. Once the asbestos material has been thoroughly wetted, it can be removed from the pipe, beam, or other surface. The choice of tool to use to remove the asbestos-containing material depends on the type of material to be removed. Asbestos-containing materials are generally covered with painted canvas and/or wire mesh. Painted canvas can be cut with a razor knife and peeled away from the asbestos-containing material underneath. Once the canvas has been peeled away, the asbestos-containing material underneath may be dry, in which case it should be resprayed with a wetting agent to ensure that it generates as little dust as possible when removed. If the asbestos-containing material is covered with wire mesh, the mesh should be cut with nips, tin snips, or other appropriate tool and remove.

A wetting agent must then be used to spray any layer of dry material that is exposed beneath the mesh, the surface of the stripped underlying structure, and the inside of the glove bag.

5. After removal of the layer of asbestos-containing material, the pipe or surface from which asbestos has been removed must be thoroughly cleaned with a wire brush and wetwiped with a wetting agent until no traces of the asbestos-containing material can be seen.
6. Any asbestos-containing insulation edges that have been exposed as a result of the removal or maintenance activity must be encapsulated with bridging encapsulant to ensure that the edges do not release asbestos fibers to the atmosphere after the glove bag has been removed.
7. When the asbestos removal and encapsulation have been completed, a vacuum hose from a HEPA filtered vacuum must be inserted into the glove bag through the port to remove any air in the bag that may contain asbestos fibers. When the air has been removed from the bag, the bag should be squeezed tightly (as close to the top as possible), twisted, and sealed with tape, to keep the asbestos materials safely in the bottom of the bag. The HEPA vacuum can then be removed from the bag and the glove bag itself can be removed from the work area to be disposed of properly.

Mini-Enclosures

In some instances, such as removal of asbestos from a small ventilation system

[1] Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

or from a short length of duct, a glove bag may not be either large enough or of the proper shape to enclose the work area. In such cases, a minienclosure can be built around the area where small-scale, shortduration asbestos maintenance or renovation work is to be performed. Such enclosures should be constructed of 6-mil-thick polyethylene plastic sheeting and can be small enough to restrict entry to the asbestos work area to one worker.

For example, a mini-enclosure can be built in a small utility closet when asbestos-containing duct covering is to be removed. The enclosure is constructed by:

1. Affixing plastic sheeting to the walls with spray adhesive and tape.
2. Covering the floor with plastic and sealing the plastic covering the floor to the plastic on the walls.
3. Sealing any penetrations such as pipes or electrical conduits with tape.
4. Constructing a small change room (approximately 3 feet square) made of 6-mil-thick polyethylene plastic supported by 2-inch by 4-inch lumber (the plastic should be attached to the lumber supports with staples or spray adhesive and tape).

The change room should be contiguous to the mini-enclosure, and is necessary to allow the worker to vacuum off his protective coveralls and remove them before leaving the work area. While inside mini-enclosure, the worker should wear Tyvek[1] disposable coveralls and use the appropriate HEPA-filtered dual-cartridge or more protective respiratory protection.

The advantages of mini-enclosures are that they limit the spread of asbestos contamination, reduce the potential exposure of bystanders and other workers who may be working in adjacent areas, and are quick and easy to install. The disadvantage of mini-enclosures is that they may be too small to contain the equipment necessary to create a negative pressure within the enclosure; however the double layer of plastic sheeting will serve to restrict the release of asbestos fibers to the area outside the enclosure.

Removal of Entire Structures

When pipes are insulated with asbestos-containing materials, removal of the entire pipe may be more protective, easier, and more cost-effective than stripping the asbestos insulation from the pipe. Before such a pipe is cut, the asbestos-containing insulation must be wrapped with 6-mil polyethylene plastic and securely sealed with duct tape or equivalent. This plastic covering will prevent asbestos fibers from becoming airborne as a result of the vibration created by the power saws used to cut the pipe. If possible, the pipes should be cut at locations that are not insulated to avoid disturbing the asbestos. If a pipe is completely insulated with asbestos-containing materials, small sections should be stripped using the glove-bag method described above before the pipe is cut at the stripped sections.

Enclosure

The decision to enclose rather than remove asbestos-containing material from an area depends on the building owner's preference, i.e., for removal or containment. Owners consider such factors as cost effectiveness, the physical configuration of the work area, and the amount of traffic in the area when determining which abatement method to use.

If the owner chooses to enclose the structure rather than to remove the asbestos-containing material insulating it, a solid structure (airtight walls and ceilings) must be built around the asbestos covered pipe or structure to prevent the release of asbestos-containing materials into the area beyond the enclosure and to prevent disturbing these materials by casual contact during future maintenance operations.

Such a permanent (i.e., for the life of the building) enclosure should be built of new construction materials and should be impact resistant and airtight. Enclosure walls should be made of tongue-and-groove boards, boards with spine joints, or gypsum boards having taped seams. The underlying structure must be able to support the weight of the enclosure. (Suspended ceilings with laid-in panels do not provide airtight enclosures and should not be used to enclose structures covered with asbestos-containing materials.) All joints between the walls and ceiling of the enclosure should be caulked to prevent the escape of asbestos fibers. During the installation of enclosures, tools that are used (such as drills or rivet tools) should be equipped with HEPA-filtered vacuums. Before constructing the enclosure, all electrical conduits, telephone lines, recessed lights, and pipes in the area to be enclosed should be moved to ensure that the enclosure will not have to be re-opened later for routine or emergency maintenance. If such lights or other equipment cannot be moved to a new location for logistic reasons, or if moving them will disturb the asbestos-containing materials, removal rather than enclosure of the asbestos-containing materials is the appropriate control method to use.

Maintenance Program

An asbestos maintenance program must be initiated in all facilities that have asbestos-containing materials. Such a program should include:

1. Development of an inventory of all asbestos-containing materials in the facility.
2. Periodic examination of all asbestos-containing materials to detect deterioration.
3. Written procedures for handling asbestos materials during the performance of small-scale, short-duration maintenance and renovation activities.
4. Written procedures for asbestos disposal.
5. Written procedures for dealing with asbestos-related emergencies.

Members of the building's maintenance engineering staff (electricians, heating/air conditioning engineers, plumbers, etc.) who may be required to handle asbestos-containing materials should be trained in safe procedures. Such training should include at a minimum:

1. Information regarding types of ACM and its various uses and forms.
2. Information on the health effects associated with asbestos exposure.
3. Descriptions of the proper methods of handling asbestos-containing materials.
4. Information on the use of HEPA-equipped dual-cartridge respirators and other personal protection during maintenance activities.

Prohibited Activities.

The training program for the maintenance engineering staff should describe methods of handling asbestos-containing materials as well as routine maintenance activities that are prohibited when asbestos-containing materials are involved. For example, maintenance staff employees should be instructed:

1. *Not* to drill holes in asbestos-containing materials.
2. *Not* to hang plants or pictures on structures covered with asbestos-containing materials.
3. *Not* to sand asbestos-containing floor tile.
4. *Not* to damage asbestos-containing materials while moving furniture or other objects.
5. *Not* to install curtains, drapes, or dividers in such a way that they damage asbestos-containing materials.
6. *Not* to dust floors, ceilings, moldings or other surfaces in asbestos-contaminated environments with a dry brush or sweep with a dry broom.

7. *Not* to use an ordinary vacuum to clean up asbestos-containing debris.

8. *Not* to remove ceiling tiles below asbestos-containing materials without wearing the proper respiratory protection, clearing the area of other people, and observing asbestos removal waste disposal procedures.

9. *Not* to remove ventilation system filters dry.

10. *Not* to shake ventilation system filters.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPTS-62048B; FRL-3190-2B]

Asbestos-Containing Material in Schools; Model Accreditation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Model Accreditation Plan.

SUMMARY: Section 206 of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2646, requires EPA to develop by April 20, 1987 a Model Contractor Accreditation Plan. To conduct asbestos-related work in schools, persons must receive accreditation in order to inspect school buildings for asbestos, develop management plans, and design or conduct response actions. Such persons can be accredited by States, which are required to adopt contractor accreditation plans at least as stringent as the EPA Model Plan, or by completing an EPA-approved training course and passing an examination for such course. The EPA Model Contractor Accreditation Plan, which will be codified in the Code of Federal Regulations, establishes those areas of knowledge of asbestos inspection, management plan development and response action technology that persons seeking accreditation must demonstrate and States must include in their accreditation programs.

EPA is not required to issue this Model Plan as a final regulation, since section 206 of TSCA only requires the Agency to "develop" the Model Plan "after consultation with affected organizations." However, EPA has decided to make the Model Plan available in the Code of Federal Regulations as an appendix to regulations required under TSCA Title II.

DATE: This Model Plan is effective June 1, 1987.

FOR FURTHER INFORMATION CONTACT: By mail: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location and telephone number: Rm. E-543, (202-554-1404).

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, EPA is proposing rules involving asbestos-containing materials in schools. The proposed rules were developed through the regulatory negotiation process described in the preamble to that proposal. The proposed rules require the use of accredited persons to perform certain tasks associated with asbestos-related work in schools.

In addition to developing the proposed rules, the regulatory negotiation committee negotiated and reached agreements, in principle, on the requirements of this EPA Model Contractor Accreditation Plan required to be developed by April 20, 1987 under section 206 of Title II of TSCA. This Model Plan is issued in this **Federal Register** document and will be codified in the Code of Federal Regulations.

Section 206 of TSCA Title II, requires local education agencies (LEAs) to use accredited persons to perform the following asbestos-related tasks:

1. Inspecting for asbestos-containing materials (ACM) in school buildings under a local education agency's authority.

2. Preparing management plans for such schools.

3. Designing or conducting response actions with respect to ACM in such schools.

The Model Plan requires persons seeking accreditation to take an initial training course, pass an examination, and participate in continuing education. LEA's have the option of hiring accredited contractors to conduct asbestos work or having in-house personnel receive accreditation. Accredited personnel are not required to be used to conduct operations and maintenance activities.

TSCA Title II requires States to adopt a contractor accreditation plan at least as stringent as the EPA Model Plan. States must adopt such a plan within 180 days after the commencement of the first regular session of the State's legislature which convenes following the date EPA issues the Model Plan. Persons can be accredited by a State with an accreditation program at least as stringent as the EPA Model Plan. Persons may also obtain accreditation by passing an EPA-approved training course and examination that, in EPA's judgment, are consistent with the Model Plan.

States may exercise their authority to have accreditation program requirements more stringent than the Model Plan. As a result, some EPA-approved training courses may not meet the requirements of a particular State's accreditation program. Sponsors of training courses and persons who have received accreditation or are seeking accreditation should contact individual States to check on accreditation requirements.

The Model Contractor Accreditation Plan is divided into four units. The first unit discusses EPA's Model Contractor Accreditation Plan for States. Unit II specifies procedures a State must follow to receive EPA Model Plan approval for the State's contractor accreditation program. Unit III discusses EPA approval of training courses. The fourth unit addresses the treatment of persons who have had previous training and an examination.

In Unit I, the Model Contractor Accreditation Plan for States specifies separate accreditation requirements for inspectors, management planners, and for those persons who design and carry out response actions. This latter group includes abatement project designers, asbestos abatement contractors, supervisors, and workers.

Persons in each of the above disciplines perform a different function. Inspectors identify and assess the ACM's condition. Management planners use the data gathered by inspectors to assess the ACM's hazard, determine the appropriate response actions, and develop a schedule for implementing response actions. Abatement project designers determine how the asbestos abatement work should be conducted. Lastly, asbestos abatement contractors, supervisors and workers carry out the abatement work.

The length of initial training courses for accreditation under the Model Plan varies by discipline. Inspectors must take a 3-day training course. Management planners must take the inspection course plus an additional 2 days devoted to management planning. Abatement project designers are required to have at least 3 days of training. Asbestos abatement contractors and supervisors must take a 4-day training course. Asbestos abatement workers are required to take a 3-day training course.

For asbestos abatement workers, while EPA is requiring a 3-day training course, States may want to consider requiring 4 days of training. States could use the additional day to provide more hands-on training or to elaborate on State regulations. States may also wish to consider the relative merits of a worker apprenticeship program. In any case, EPA recommends worker training courses be small, with a student to teacher ratio of about 25 to 1.

States may also consider requiring project monitors to be trained. Project monitors oversee the abatement work and are the on-site representative of the building owner. These persons should take the training course for asbestos abatement contractors and supervisors.

The second unit of the Model Plan specifies procedures a State must follow

to receive EPA Model Plan approval for the State's contractor accreditation program. States may seek approval for one or more of the disciplines requiring accreditation under TSCA Title II. For example, if a State currently only has an accreditation program for inspectors, EPA will grant a partial approval of the State's contractor accreditation program provided that the State's requirements for inspectors are at least as stringent as those in the EPA Model. EPA encourages States to seek partial approvals. EPA will publish an initial list of those States that have programs at least as stringent as the EPA Model within 90 days after publication of this **Federal Register** Notice.

The third unit of this Model Plan discusses EPA approval of courses. EPA will require sponsors seeking approval of training courses to submit training materials to EPA. The training course and examination must be consistent with the Model Plan's requirements in these areas. EPA will publish an initial list of those courses and examinations approved by EPA for purposes of TSCA Title II within 90 days after publication of this **Federal Register** Notice.

The fourth unit of the Model Plan addresses the treatment of persons who have had previous training. Persons may be accredited if they have completed an EPA-approved asbestos training course in their discipline and have passed or pass an examination in their discipline. Such persons may be accredited, on an interim basis, if in EPA's judgment the course and examination are equivalent to the Model Plan's requirements.

The interim accreditation will extend for no longer than 1 year after the date that the State in which the person is employed adopts an accreditation program at least as stringent as the EPA Model. If the State does not adopt an accreditation program within the 180 day time period after the State legislature reconvenes for its first regular session, the person with interim accreditation must complete training requirements at least as stringent as those described in the EPA Model within 1 year after the date that the State was required to have established a program. EPA will publish a list of those courses and examinations which qualify for equivalency treatment under the provisions for interim accreditation within 90 days after publication of this **Federal Register** Notice.

EPA has consulted extensively with affected organizations on the Model Plan. The Agency has had extensive discussions on Model Plan issues with interested persons even before Title II was enacted. EPA also solicited comment on general issues affecting the Model Plan in the Advanced Notice of Proposed Rulemaking issued on December 31, 1986, in compliance with TSCA Title II. Finally, since enactment of TSCA Title II, EPA has solicited comment from over 75 organizations and has discussed the Model Plan in the negotiated rulemaking. The various data, views, and arguments submitted are part of the administrative record for this proceeding.

I. Administrative Record

EPA has established an administrative record under control number [OPTS–62048B]. A public version of the record and an index of documents in the record are available to the public in the Toxic Substances Public Information Office from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The Public Information Office is located in Rm. NE–G004, 401 M St., SW., Washington, DC.

II. References

(1) USEPA. "Asbestos in Buildings: Simplified Sampling Scheme for Friable Surfacing Materials," EPA 560/5–85–030a. October 1985.

(2) USEPA. Friable Asbestos-Containing Materials in Schools: Identification and Notification [40 CFR Part 763 Subpart F].

(3) USEPA. National Emission Standards for Hazardous Air Pollutants: Amendments to Asbestos Standard; Final Rule [40 CFR Part 61].

(4) USDOL. OSHA. Occupational Exposure to Asbestos, Final Rule [29 CFR 1926.58].

(5) USEPA. Toxic Substances; Asbestos Abatement Projects; Final Rule [40 CFR Part 763 Subpart G]

(6) USDOL. OSHA. Occupational Safety and Health Standards, Subpart I, Personal Protective Equipment [29 CFR 1910.134].

III. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA prepared a Regulatory Impact Analysis. The analysis estimated that the first year cost of this Model Accreditation Plan would be about $7.7 million. EPA believes that these costs are reasonable. Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this Model Accreditation Plan, by itself, will not have an effect on the economy of $100 million or more and it will not have a significant effect on competition, costs, or prices. For more detailed information, see the proposed rules on Asbestos-Containing Materials found elsewhere in this issue of the **Federal Register** and the accompanying Regulatory Impact Analysis.

This Model Accreditation Plan was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

EPA believes the economic impact of the Model Accreditation Plan on small businesses is negligible. Roughly 25 States already have accreditation programs of some type in effect. In addition, EPA-funded training centers currently train several thousand persons each year.

C. Paperwork Reduction Act

The information collection requirements contained in this Model Accreditation Plan have been submitted to the Office of Management and Budget (OMB) as part of the proposed regulations concerning asbestos-containing materials in schools under the provisions of the Paperwork Reduction Act. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs at OMB and marked Attention: Desk Officer for EPA.

List of Subjects in 40 CFR Part 763

Asbestos, Environmental protection, Hazardous substances, Occupational safety and health, Reporting and recordkeeping requirements, Schools.

Dated: April 20, 1987.

Lee M. Thomas,

Administrator.

PART 763—[AMENDED]

Therefore, 40 CFR Part 763 is amended as follows:

1. The authority citation for Part 763 is revised to read as follows:

Authority: 15 U.S.C. 2605 and 2607(c). Subpart E also issued under 15 U.S.C. 2641, 2643, 2646, and 2647.

2. Subpart E is added consisting at this time of Appendix C to read as follows:

Subpart E—Asbestos-Containing Materials in Schools

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Appendix C to Subpart E—EPA Model Contractor Accreditation Plan

I. Model Contractor Accreditation Plan for States

The Model Contractor Accreditation Plan for States has six components:

(1) Initial training,

(2) Examinations,

(3) Refresher training course,

(4) Qualifications,

(5) Decertification requirements,

(6) Reciprocity.

For purposes of TSCA Title II accreditation requirements, the duration of initial and refresher training courses is specified in number of days. A day of training equals 8 hours including breaks and lunch.

In several instances, initial training courses for a specific discipline (e.g., workers, inspectors) require hands-on training. For asbestos abatement contractors, supervisors and workers, hands-on training should include working with asbestos-substitute materials, fitting and using respirators, use of glovebags, donning protective clothing, constructing a decontamination unit as well as other abatement work activities. Hands-on training must permit contractors, supervisors, and workers to have actual experience performing tasks associated with asbestos abatement. For inspectors, hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing.

1. Initial Training

States have the option to provide initial training directly or approve other entities to offer training. The following are the initial training course requirements for persons required to have accreditation under TSCA Title II.

A. *Inspectors.* A State shall require that all persons seeking accreditation as inspectors complete a 3-day training course as outlined below. The 3-day program shall include lectures, demonstrations, 4-hours of hands-on training, individual respirator fit testing, course review and a written examination. EPA recommends the use of audiovisual materials to complement lectures, where appropriate.

The inspector training course shall adequately address the following topics:

(a) *Background information on asbestos.* Identification of asbestos, and examples and discussion of the uses and locations of asbestos in buildings; physical appearance of asbestos.

(b) *Potential health effects related to asbestos exposure.* The nature of asbestos-related diseases; routes of exposure; dose-response relationships and the lack of a safe exposure level; the synergistic effect between cigarette smoking and asbestos exposure; the latency period for asbestos-related diseases; a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma, and cancer of other organs.

(c) *Functions/qualifications and role of inspectors.* Discussions of prior experience and qualifications for inspectors and management planners; discussions of the functions of an accredited inspector as compared to those of an accredited management planner; discussion of inspection process including inventory of ACM and physical assessment.

(d) *Legal liabilities and defenses.* Responsibilities of the inspector and management planner; a discussion of comprehensive general liability policies, claims-made and occurrence policies, environmental and pollution liability policy clauses; State liability insurance requirements; bonding and the relationship of insurance availability to bond availability.

(e) *Understanding building systems.* The interrelationship between building systems, including: An overview of common building physical plan layout; heat, ventilation and air conditioning (HVAC) system types, physical organization, and where asbestos is found on HVAC components; building mechanical systems, their types and organization, and where to look for asbestos on such systems; inspecting electrical systems, including appropriate safety precautions; reading blueprints and as-built drawings.

(f) *Public/employee/building occupant relations.* Notifying employee organizations about the inspection; signs to warn building occupants; tact in dealing with occupants and the press; scheduling of inspections to minimize disruption; and education of building occupants about actions being taken.

(g) *Pre-inspection planning and review of previous inspection records.* Scheduling the inspection and obtaining access; building record review; identification of probable homogeneous areas from blueprints or as-built drawings; consultation with maintenance or building personnel; review of previous inspection, sampling and abatement records of a building; the role of the inspector in exclusions for previously performed inspections.

(h) *Inspecting for friable and non-friable asbestos-containing material (ACM) and assessing the condition of friable ACM.* Procedures to follow in conducting visual inspections for friable and non-friable ACM; types of building materials that may contain asbestos; touching materials to determine friability; open return air plenums and their importance in HVAC systems; assessing damage, significant damage, potential damage, and potential significant damage; amount of suspected ACM, both in total quantity and as a percentage of the total area; type of damage; accessibility; material's potential for disturbance; known or suspected causes of damage or significant damage; and deterioration as assessment factors.

(i) *Bulk sampling/documentation of asbestos in schools.* Detailed discussion of the "Simplified Sampling Scheme for Friable Surfacing Materials (EPA 560/5-85-030a October 1985);" techniques to ensure sampling in a randomly distributed manner for other than friable surfacing materials; sampling of non-friable materials; techniques for bulk sampling; sampling equipment the inspector should use; patching or repair of damage done in sampling; an inspector's repair kit; discussion of polarized light microscopy; choosing an accredited laboratory to analyze bulk samples; quality control and quality assurance procedures.

(j) *Inspector respiratory protection and personal protective equipment.* Classes and characteristics of respirator types; limitations of respirators; proper selection, inspection, donning, use, maintenance, and storage procedures for respirators; methods for field testing of the facepiece-to-mouth seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of non-disposable clothing.

(k) *Recordkeeping and writing the inspection report.* Labeling of samples and keying sample identification to sampling location; recommendations on sample labeling; detailing of ACM inventory; photographs of selected sampling areas and examples of ACM condition; information required for inclusion in the management plan by TSCA Title II section 203(i)(1).

(l) *Regulatory review.* EPA Worker Protection Rule found at 40 CFR Part 763, Subpart G; TSCA Title II; OSHA Asbestos Construction Standard 29 CFR 1926.58; OSHA respirator requirements found at 29 CFR 1910.134; the Friable ACM in Schools Rule found at 40 CFR Part 763, Subpart F; applicable State and local regulations, and differences in Federal/State requirements where they apply and the effects, if any, on public and non-public schools.

(m) *Field trip.* To include a field exercise including a walk-through inspection; on-site discussion on information gathering and determination of sampling locations; on-site practice in physical assessment; classroom discussion of field exercise.

(n) *Course review.* A review of key aspects of the training course.

B. Management Planners. A State shall require that all persons seeking accreditation as management planners complete an inspection training course as outlined above and a 2-day management planning training course. The 2-day training program shall include lectures, demonstrations, course review, and a written examination. EPA recommends the use of audiovisual materials to complement lectures, where appropriate.

The management planner training course shall adequately address the following topics:

(a) *Course overview.* The role of the management planner; operations and maintenance programs; setting work priorities; protection of building occupants.

(b) *Evaluation/interpretation of survey results.* Review of TSCA Title II requirements for inspection and management plans as given in section 203(i)(1) of TSCA Title II; summarized field data and laboratory results; comparison between field inspector's data sheet with laboratory results and site survey.

(c) *Hazard assessment.* Amplification of the difference between physical assessment and hazard assessment; the role of the management planner in hazard assessment; explanation of significant damage, damage, potential damage, and potential significant damage; use of a description (or decision tree) code for assessment of ACM; assessment of friable ACM; relationship of accessibility, vibration sources, use of adjoining space, and air plenums and other factors to hazard assessment.

(d) *Legal implications.* Liability; insurance issues specific to planners; liabilities associated with interim control measures, in-house maintenance, repair, and removal; use of results from previously performed inspections.

(e) *Evaluation and selection of control options.* Overview of encapsulation, enclosure, interim operations and maintenance, and removal; advantages and disadvantages of each method; response actions described via a decision tree or other appropriate method; work practices for each response action; staging and prioritizing of work in both vacant and occupied buildings; the need for containment barriers and decontamination in response actions.

(f) *Role of other professionals.* Use of industrial hygienists, engineers, and architects in developing technical specifications for response actions; any requirements that may exist for architect sign-off of plans; team approach to design of high-quality job specifications.

(g) *Developing an operations and maintenance (O&M) plan.* Purpose of the plan; discussion of applicable EPA guidance documents; what actions should be taken by custodial staff; proper cleaning procedures; steam cleaning and high efficiency particulate aerosol (HEPA) vacuuming; reducing disturbance of ACM; scheduling O&M for off-hours; rescheduling or canceling renovation in areas with ACM; boiler room maintenance; disposal of ACM; in-house procedures for ACM—bridging and penetrating encapsulants; pipe fittings; metal sleeves; polyvinyl chloride (PVC), canvas, and wet wraps; muslin with straps; fiber mesh cloth; mineral wool, and insulating cement; discussion of employee protection programs and staff training; case study in developing an O&M plan (development, implementation process, and problems that have been experienced).

(h) *Regulatory review.* Focusing on the OSHA Asbestos Construction Standard found at 29 CFR 1926.58; the National Emission Standard for Hazardous Air Pollutants (NESHAPS) found at 40 CFR Part 61, Subparts A (General Provisions) and M (National Emission Standard for Asbestos); EPA Worker Protection Rule found at 40 CFR Part 763, Subpart G; TSCA Title II; applicable State regulations.

(i) *Recordkeeping for the management planner.* Use of field inspector's data sheet along with laboratory results; on-going recordkeeping as a means to track asbestos disturbance; procedures for recordkeeping.

(j) *Assembling and submitting the management plan.* Plan requirements in TSCA Title II section 203(i)(1); the management plan as a planning tool.

(k) *Financing abatement actions.* Economic analysis and cost estimates; development of cost estimates; present costs of abatement versus future operations and maintenance costs; Asbestos School Hazard Abatement Act grants and loans.

(l) *Course review.* A review of key aspects of the training course.

C. Abatement Project Designers. A State shall require that all persons seeking accreditation as abatement project designers complete either a 3-day abatement project designer training course as outlined below or the 4-day asbestos abatement contractor and supervisor's training course that is outlined in the next sub-unit. The 3-day abatement project designer training program shall include lectures, demonstrations, a field trip, course review, and a written examination. EPA recommends the use of audiovisual materials to complement lectures, where appropriate.

The 3-day abatement project designer training course shall adequately address the following topics:

(a) *Background information on asbestos.* Identification of asbestos; examples and discussion of the uses and locations of asbestos in buildings; physical appearance of asbestos.

(b) *Potential health effects related to asbestos exposure.* Nature of asbestos-related diseases; routes of exposure; dose-response relationships and the lack of a safe exposure level; the synergistic effect between cigarette smoking and asbestos exposure; the latency period of asbestos-related diseases; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of other organs.

(c) *Overview of abatement construction projects.* Abatement as a portion of a renovation project; OSHA requirements for notification of other contractors on a multi-employer site (29 CFR 1926.58).

(d) *Safety system design specifications.* Construction and maintenance of containment barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lock-out; proper working techniques for minimizing fiber release; entry and exit procedures for the work area; use of wet methods; use of negative pressure exhaust ventilation equipment; use of high efficiency particulate aerosol (HEPA) vacuums; proper clean-up and disposal of asbestos; work practices as they apply to encapsulation, enclosure, and repair; use of glove bags and a demonstration of glove bag use.

(e) *Field trip.* Visit an abatement site or other suitable building site, including on-site discussions of abatement design, building walk-through inspection, and discussion following the walk-through.

(f) *Employee personal protective equipment.* To include the classes and characteristics of respirator types; limitations of respirators; proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of

non-disposable clothing; and regulations covering personal protective equipment.

(g) *Additional safety hazards.* Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.

(h) *Fiber aerodynamics and control.* Aerodynamic characteristics of asbestos fibers; importance of proper containment barriers; settling time for asbestos fibers; wet methods in abatement; aggressive air monitoring following abatement; aggressive air movement and negative pressure exhaust ventilation as a clean-up method.

(i) *Designing abatement solutions.* Discussions of removal, enclosure, and encapsulation methods; asbestos waste disposal.

(j) *Budgeting/cost estimation.* Development of cost estimates; present costs of abatement versus future operations and maintenance costs; setting priorities for abatement jobs to reduce cost.

(k) *Writing abatement specifications.* Means and methods specifications versus performance specifications; design of abatement in occupied buildings; modification of guide specifications to a particular building; worker and building occupant health/medical considerations; replacement of ACM with non-asbestos substitutes; clearance of work area after abatement; air monitoring for clearance.

(l) *Preparing abatement drawings.* Use of as-built drawings; use of inspection photographs and on-site reports; particular problems in abatement drawings.

(m) *Contract preparation and administration.*

(n) *Legal/liabilities/defenses.* Insurance considerations; bonding; hold harmless clauses; use of abatement contractor's liability insurance; claims-made versus occurrence policies.

(o) *Replacement.* Replacement of asbestos with asbestos-free substitutes.

(p) *Role of other consultants.* Development of technical specification sections by industrial hygienists or engineers; the multidisciplinary team approach to abatement design.

(q) *Occupied buildings.* Special design procedures required in occupied buildings; education of occupants; extra monitoring recommendations; staging of work to minimize occupant exposure; scheduling of renovation to minimize exposure.

(r) *Relevant Federal State, and local regulatory requirements.* Procedures and standards, including:

(1) Requirements of TSCA Title II.

(2) 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).

(3) OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).

(4) EPA Worker Protection Rule, found at 40 CFR Part 763, Subpart G.

(5) OSHA Asbestos Construction Standard found at 29 CFR 1926.58.

(s) *Course Review.* A review of key aspects of the training course.

D. Asbestos Abatement Contractors and Supervisors. A State shall require that all persons seeking accreditation as asbestos abatement contractors or supervisors complete a 4-day training course as outlined below. The training course shall include lectures, demonstrations, at least 6 hours of hands-on training, individual respirator fit testing, course review, and a written examination. EPA recommends the use of audiovisual materials to complement lectures, where appropriate.

The contractor may designate a supervisor to serve as his agent for the purposes of the accreditation requirement. For purposes of TSCA Title II accreditation, asbestos abatement supervisors include those persons who provide supervision and direction to workers engaged in asbestos removal, encapsulation, enclosure, and repair. Supervisors may include those individuals with the position title of foreman, working foreman, or leadman pursuant to collective bargaining agreements. Under this Model Plan, at least one supervisor is required to be at the worksite at all times while work is in progress. Asbestos workers must have access to accredited supervisors throughout the duration of the project.

The contractor and supervisor's training course shall adequately address the following topics:

(a) *The physical characteristics of asbestos, and asbestos-containing materials.* Identification of asbestos, aerodynamic characteristics, typical uses, physical appearance, a review of hazard assessment considerations, and a summary of abatement control options.

(b) *Potential health effects related to asbestos exposure.* The nature of asbestos-related diseases; routes of exposure; dose-response relationships and the lack of a safe exposure level; synergism between cigarette smoking and asbestos exposure; latency period for disease.

(c) *Employee personal protective equipment.* Classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of non-disposable clothing; and regulations covering personal protective equipment.

(d) *State-of-the-art work practices.* Proper work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation equipment; use of high efficiency particulate air (HEPA) vacuums; proper clean-up and disposal procedures. Work practices for removal, encapsulation, enclosure, and repair; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures, and recommended and prohibited work practices. Discussion of new abatement-related techniques and methodologies may be included.

(e) *Personal hygiene.* Entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area. Potential exposures, such as family exposure, shall also be included.

(f) *Additional safety hazards.* Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips and falls, and confined spaces.

(g) *Medical monitoring.* OSHA requirements for a pulmonary function test, chest X-rays and a medical history for each employee.

(h) *Air monitoring.* Procedures to determine airborne concentrations of asbestos fibers, including a description of aggressive sampling, sampling equipment and methods, reasons for air monitoring, types of samples, and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses.

(i) *Relevant Federal, State, and local regulatory requirements.* Procedures and standards, including:

(A) Requirements of TSCA Title II.

(B) 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).

(C) OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).

(D) OSHA Asbestos Construction Standard (29 CFR 1926.58).

(E) EPA worker Protection Rule, 40 CFR Part 763, Subpart G.

(j) *Respiratory protection programs and medical surveillance programs.*

(k) *Insurance and liability issues.* Contractor issues; worker's compensation coverage and exclusions; third-party liabilities and defenses; insurance coverage and exclusions.

(l) *Recordkeeping for asbestos abatement projects.* Records required by Federal, State, and local regulations; records recommended for legal and insurance purposes.

(m) *Supervisory techniques for asbestos abatement activities.* Supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.

(n) *Contract specifications.* Discussion of key elements that are included in contract specifications.

(o) *Course review.* A review of key aspects of the training course.

E. *Asbestos Abatement Workers.* Each State shall require that all persons seeking accreditation as asbestos abatement workers complete at least a 3-day training course as outlined below. The worker training course shall include lectures, demonstrations, at least 6 hours of hands-on training, individual respirator fit testing, course review, and an examination. EPA recommends the use of audiovisual materials to complement lectures, where appropriate.

The training course shall adequately address the following topics:

(a) *Physical characteristics of asbestos.* Identification of asbestos, aerodynamic characteristics, typical uses, and physical appearance, and a summary of abatement control options.

(b) *Potential health effects related to asbestos exposure.* The nature of asbestos-related diseases, routes of exposure, dose-response relationships and the lack of a safe exposure level, synergism between cigarette smoking and asbestos exposure, and latency period for disease.

(c) *Employee personal protective equipment.* Classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of non-disposal clothing; and regulations covering personal protective equipment.

(d) *State-of-the-art work practices.* Proper asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lock-out; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation equipment; use of high efficiency particulate air (HEPA) vacuums; proper clean-up and disposal procedures; work practices for removal, encapsulation, enclosure, and repair; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures; and recommended and prohibited work practices.

(e) *Personal hygiene.* Entry and exit procedures for the work area; use of showers; avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area; and potential exposures, such as family exposure.

(f) *Additional safety hazards.* Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips and falls, and confined spaces.

(g) *Medical monitoring.* OSHA requirements for a pulmonary function test, chest X-rays and a medical history for each employee.

(h) *Air monitoring.* Procedures to determine airborne concentrations of asbestos fibers, focusing on how personal air sampling is performed and the reasons for it.

(i) *Relevant Federal, State and local regulatory requirements, procedures, and standards.* With particular attention directed at relevant EPA, OSHA, and State regulations concerning asbestos abatement workers.

(j) *Establishment of respiratory protection programs.*

(k) *Course review.* A review of key aspects of the training course.

2. Examinations

Each State shall administer a closed book examination or designate other entities such as State-approved training courses to administer the closed book examination to persons seeking accreditation who have completed an initial training course. Demonstration testing may also be included as part of the examination. A person seeking accreditation in a specific discipline shall pass the examination for that discipline to receive accreditation. For example, a person seeking accreditation as an inspector must pass the State's inspector accreditation examination.

States may develop their own examinations, have training courses develop examinations or use standardized examinations developed for purposes of TSCA Title II accreditation. The National Asbestos Council (NAC) is working with the Georgia Institute of Technology to develop standardized examinations for all disciplines. States may supplement standardized examinations with questions on State regulations. To receive more information on this topic, interested States should contact NAC at the following address: National Asbestos Council, Training Department, 2786 North Decatur Rd., Suite 260, Decatur, Georgia 30033.

Each examination shall adequately cover the topics included in the training course for that discipline. Persons who pass the State examination, and fulfill whatever other requirements the State imposes, must receive some form of identification indicating that they are accredited in a specific discipline. For example, a State may wish to provide each accredited person with a photoidentification card. Where necessary, States should consider developing examinations in languages other than English.

The following are the requirements for examinations in each area:

1. Inspectors:

i. 50 multiple choice questions.

ii. Passing score: 70 percent.

2. Management Planners:

i. 50 multiple choice questions.

ii. Passing score: 70 percent.

3. Abatement Project Designers:

i. 100 multiple choice questions.

ii. Passing score: 70 percent.

4. Asbestos abatement contractors and supervisors:

i. 100 multiple choice questions.

ii. Passing score: 70 percent.

5. Asbestos Abatement Workers:

i. 50 multiple choice questions.

ii. Passing score: 70 percent.

3. Refresher Training Courses

For all disciplines except inspectors, a State's accreditation program shall include a 1-day annual refresher training course for reaccreditation. Refresher courses for inspectors shall be a half-day in length. Management planners shall attend the inspector refresher course, plus an additional half-day on management planning.

The refresher course shall be specific to each discipline. For each discipline, the refresher course shall review and discuss changes in Federal and State regulations, developments in state-of-the-art procedures and a review of key aspects of the initial training course as determined by the State. After completing the annual refresher course, persons shall have their accreditation extended an additional year. A State may consider requiring persons to pass reaccreditation examinations at specific intervals (every 3 years, for example).

4. Qualifications

In addition to training and an examination, a State may require whatever qualifications and experience that the State considers appropriate for some or all disciplines. States may want to consider requiring qualifications similar to the examples outlined below for inspectors, management planners and abatement project designers. States should modify these as appropriate. In addition, States may want to include some requirements based on experience in conducting a task directly or in an apprenticeship role:

Inspectors

Qualifications—Possess a high school diploma.

States may want to require an Associate's Degree in particular fields (e.g., environmental or physical sciences).

Management Planners

Qualifications—Registered architect, engineer, or certified industrial hygienist or related scientific field.

Abatement Project Designer

Qualifications—Registered architect, engineer, or a certified industrial hygienist.

5. Decertification Requirements

A State must include conditions and procedures for decertifying accredited inspectors, management planners, abatement project designers, asbestos abatement contractors, supervisors and workers.

6. Reciprocity

EPA recommends that each State establish reciprocal arrangements with other States that have established accreditation programs that meet or exceed the EPA Model Plan.

II. EPA Approval Process for State Contractor Accreditation Programs

States seeking EPA approval of their State Contractor Accreditation Programs required under TSCA shall follow the procedures outlined below. States may seek approval for some or all disciplines as specified in the Model Plan. For example, a State that currently only requires worker accreditation can receive EPA approval for that discipline alone. EPA encourages States that currently do not have accreditation requirements for all the disciplines required under TSCA to seek EPA approval for those disciplines the State does accredit. As States establish accreditation requirements for the remaining disciplines, the requested information outlined below should be submitted to EPA as soon as possible.

States seeking EPA approval shall submit the following information to the Regional Asbestos Coordinator at their EPA Regional Office:

(1) A copy of the legislation establishing the State's accreditation program (if applicable).

(2) A copy of the State's accreditation regulations.

(3) A letter to the Regional Asbestos Coordinator that clearly indicates how the State meets the program requirements of the Model Contractor Accreditation Plan for States. Addresses of Regional Asbestos Coordinators are shown below:

Asbestos Coordinator, EPA, Region I, Air & Management Div. (APT–231), JFK Federal Bldg., Boston, MA 02203, (617) 565–3273

Asbestos Coordinator, EPA, Region II, Woodbridge Ave., Raritan Depot, Bldg. 10, Edison, NJ 08837, (201) 321–6668, (FTS) 340–6671

Asbestos Coordinator, EPA, Region III (3HW–40), 841 Chestnut Bldg., Philadelphia, PA 19107, (215) 597–9859, (FTS) 597–9859

Asbestos Coordinator, EPA, Region IV, 345 Courtland St. NE., Atlanta, GA 30365, (404) 347–3864, (FTS) 257–3864

Asbestos Coordinator, EPA, Region V, 536 S. Clark Street, Chicago, IL 60604, (312) 886–6879, (FTS) 886–6879

Asbestos Coordinator, 6t–Pt, EPA, Region VI, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 655–7244, (FTS) 255–7235

Asbestos Coordinator, EPA, Region VII, 726 Minnesota Ave., Kansas City, KS 66101, (913) 236–2834, (FTS) 757–2834

Asbestos Coordinator, (8AT–TS), EPA, Region VIII, 1 Denver Place, 999—18th Street, Suite 1300, Denver, CO 80202–2413, (303) 564–1730, (FTS) 564–1742

Asbestos Coordinator, (T–52), EPA, Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 974–7290, (FTS) 454–7290

Asbestos Coordinators, EPA, Region X, 1200 Sixth Avenue, Seattle, WA–98101, (206) 442–2870, (FTS) 399–2870

EPA will publish a list of those States that have accreditation requirements that are at least as stringent as the EPA Model for one or more disciplines. Any training courses approved by such States are EPA-approved for purposes of accreditation.

III. EPA Approval of Training Courses

Individuals or groups wishing to sponsor training courses for disciplines required to be accredited under TSCA Title II may apply for EPA approval. For a course to receive approval, it must meet the requirements for the course as outlined in the Model Plan for States. EPA will not review courses that are already approved in a State that has a Contractor Accreditation Program that meets the EPA Model. These courses already are approved under TSCA Title II in the State where they are approved and in all States without an accreditation program that meets the EPA Model.

Applicants shall send the information requested below to the Regional Asbestos Coordinator at the EPA Regional Office (see addresses in Section II) located in the Region where the training course maintains its principal business office. The following information is required:

(1) The course sponsor's name, address and phone number.

(2) A list of any States that currently approve the training course.

(3) The course curriculum.

(4) A letter from the training course sponsor that clearly indicates how the course meets the Model Plan requirements for:

(a) Length of training in days.

(b) Amount and type of hands-on training.

(c) Examinations (length, format, and passing score).

(d) Topics covered in the course.

(5) A copy of all course materials (student manuals, instructor notebooks, handouts, etc.)

(6) A detailed statement about the development of the examination used in the course.

(7) Names and qualifications of course instructors. Instructors must have academic credentials and/or field experience in asbestos abatement.

(8) Description and an example of numbered certificates issued to students

who attend the course and pass the examination.

For refresher courses in any of the disciplines, information required is as follows:

(1) Length of training.

(2) Topics covered in the course.

(3) A copy of all course materials.

(4) Names and qualifications of course instructors.

(5) Description and an example of certificates issued to students who complete the refresher course.

As noted above, the training course administrator must issue numbered certificates to students who successfully pass the training course's examination. The numbered certificate would indicate the name of the student and the course completed, the dates of the course and the examination, and a statement indicating that the student passed the examination.

The certificate also would include an expiration date for accreditation that is 1 year after the date on which the student completed the course and examination. Training course administrators who offer refresher training courses must also provide certificates with all of the above information (except testing information).

Accredited persons must have their initial and current accreditation certificates at the location where they are conducting work. Failure to have accreditation certificates at the job site could result in decertification.

EPA may revoke or suspend EPA approval if field site inspections indicate a training course is not conducting training that meets the requirements of the Model Plan. Training course sponsors shall permit EPA representatives to attend, evaluate, and monitor any training course without charge to EPA. EPA inspection staff may not give advance notice of their inspections.

EPA will publish a list of those training courses that are consistent with the Model Plan and are approved for purposes of TSCA Title II.

IV. Provisions for Interim Accreditation

TSCA Title II enables EPA to permit persons to be accredited on an interim basis if they have attended previous EPA-approved asbestos training and have passed (or pass) an asbestos examination. Only those persons who have taken training courses since January 1, 1985 will be considered under these interim accreditation provisions. EPA will determine whether the course and examination are equivalent to the training and examination requirements of the Model Plan. This accreditation is interim since the person shall be considered accredited for only 1 year after the date on which the State where the person is employed establishes an accreditation program at least as stringent as the EPA Model.

For purposes of the Model Plan, an equivalent training course is one that is essentially similar in length and content to the curriculum found in the Model Plan. In addition, an equivalent examination must be essentially similar to the requirements of the Model Plan.

Persons who have taken equivalent courses in their discipline, and can produce evidence that they have successfully completed the course by passing the examination, are accredited on an interim basis under TSCA Title II. They can conduct work under TSCA Title II in their discipline for 1 year after their State establishes an accreditation program in their discipline that is at least as stringent as the EPA Model. EPA will publish a list of training courses that are equivalent to the training requirements for each discipline in the Model Plan.

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federal register

Thursday
April 30, 1987

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 31
Federal Acquisition Regulation (FAR); Unallowable Costs; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

Federal Acquisition Regulation (FAR); Unallowable Costs Under FAR 31.205

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to FAR 31.204, Application of principles and procedures, which will lay down broad guidelines for determining the allowability of contractor expenditures to which several cost principles seem relevant.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before June 29, 1987 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th and F Streets NW., Room 4041, Washington, DC 20405. Please cite FAR Case 85–63 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The General Accounting Office (GAO), in a May 7, 1985, report entitled "Improvements Needed in Department of Defense Procedures to Prevent Reimbursement of Unallowable Costs on Government Contracts," recommended that the FAR be amended to state that any cost made specifically unallowable under any subsection of FAR 31.205 is not allowable under any other subsection of FAR 31.205. The recommendation's stated purpose was to prevent ambiguities in the cost principles from permitting the reimbursement under one principle of a cost that should have been unallowable under another. The Defense Acquisition Regulatory and the Civilian Agency Acquisition Councils initially concurred with the GAO recommendation, and accordingly issued a proposed revision of FAR 31.201–2 for public comment in the Federal Register of December 19, 1985. The public comments received have persuaded the Councils that the issues here are more complex than previously perceived, and that the initially published coverage did not deal fairly with that complexity. Accordingly, the Councils are proposing new language at FAR 31.204 to provide guidelines for determining the status of costs to which more than one cost principle is relevant.

B. Regulatory Flexibility Act

The proposed change to FAR 31.204 is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. *et seq.*) because most contracts awarded to small entities are awarded on a competitive fixed-price basis and the cost principles do not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the proposed rule does not impose any additional recordkeeping or information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: April 20, 1987.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 31 be amended as set forth below:

1. The authority citation for Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

2. Section 31.204 is amended by revising paragraph (c) to read as follows:

31.204 Application of principles and procedures.

* * * * *

(c) Section 31.205 does not cover every element of cost, nor does it treat every purpose for which costs are incurred. Failure to include any item of cost, or to describe a specific purpose for incurring costs does not imply that cost is either allowable or unallowable. The determination of allowability shall be based on the principles and standards in this subpart and the treatment of similar or related selected costs or purposes for which expenditures are made. However, costs shall not be allowed under a cost principle when there is another more relevant cost principle which would make the costs unallowable. When more than one cost principle has reasonable applicability to a cost in question, the rules and standards in each cost principle shall be considered in determining the respective amount of allowable and unallowable costs.

[FR Doc. 87–9724 Filed 4–29–87; 8:45 am]

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federal register

Thursday
April 30, 1987

Part V

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 310, 336, and 369

Antiemetic Drug Products for Over-the-Counter Human Use; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 310, 336, and 369

[Docket No. 78N-036A]

Antiemetic Drug Products for Over-the-Counter Human Use; Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule in the form of a final monograph establishing conditions under which over-the-counter (OTC) antiemetic drug products (products for the prevention and treatment of nausea and vomiting) are generally recognized as safe and effective and not misbranded. FDA is issuing this final rule after considering public comments on the agency's proposed regulation, which was issued in the form of a tentative final monograph, and all new data and information on antiemetic drug products that have come to the agency's attention. This final monograph is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: May 2, 1988.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 21, 1975 (40 FR 12902), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC antiemetic drug products, together with the recommendations of the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by June 19, 1975. Reply comments in response to comments filed in the initial comment period could be submitted by July 19, 1975.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed regulation, in the form of a tentative final monograph, for OTC antiemetic drug products was published in the **Federal Register** of July 13, 1979 (44 FR 41064). Interested persons were invited to file by August 13, 1979, objections and/or requests for oral hearing before the Commissioner of Food and Drugs regarding the proposal. Final agency action occurs with the publication of this final monograph, which is a final rule establishing a monograph for OTC antiemetic drug products.

In the **Federal Register** of October 26, 1979 (44 FR 61610), the agency published a notice reopening the administrative record for OTC antiemetic drug products from October 26, 1979 to March 26, 1980 to permit manufacturers to submit, prior to the establishment of a final monograph, new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Interested persons were invited to submit comments on the new data on or before May 27, 1980. Data and information received after the administrative record was reopened are on display in the Dockets Management Branch.

In a notice published in the **Federal Register** of March 21, 1980 (45 FR 18398), the agency advised that it had also reopened the administrative record for OTC antiemetic drug products to allow for consideration of data and information that had been filed in the Dockets Management Branch after the date the administrative record had officially closed. The agency concluded that any new data and information filed prior to March 21, 1980 should be available to the agency in developing a final monograph.

The OTC procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

The agency advises that the conditions under which the drug products that are subject to this monograph will be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication in the **Federal Register.** Therefore, on or after May 2, 1988, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application (NDA). Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the tentative final monograph for OTC antiemetic drug products, the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products may have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and further

reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is providing an effective date of 12 months after the date of publication of the final monograph in the **Federal Register.**

In response to the proposed rule on OTC antiemetic drug products, two consumer groups and three drug manufacturers submitted comments. Requests for oral hearing before the Commissioner were also received on three different issues. Copies of the comments and the hearing requests received are on public display in the Dockets Management Branch. Any additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the **Federal Register** of February 8, 1973 (38 FR 3614) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Conclusions on the Comments

A. General Comments on Antiemetic Drug Products.

1. One comment claimed that FDA has unreasonably narrowed the antiemetic monograph to focus only on products intended for prevention of motion sickness. The comment requested a hearing on this issue. The comment argued that FDA has improperly chosen to ignore the other causes of nausea on the theory that the term "nausea" is too vague to regulate. The comment further argued that FDA failed to review previously submitted data (Refs. 1 and 2) and to provide indications for products for the treatment of nausea and vomiting associated with conditions other than motion sickness.

FDA has not narrowed the scope of the antiemetic rulemaking to focus only on products intended for prevention of motion sickness. In the tentative final monograph, FDA specifically acknowledged that OTC antiemetics may also be used in the treatment of nausea and vomiting other than that associated with motion sickness. (See 44 FR 41068.) With the exception of the nausea claims associated with upset stomach or indigestion due to overindulgence in food and drink as discussed in comment 2 below, all other nausea and vomiting claims and the data to support them have been considered in this rulemaking. The two studies referred to by the comment were considered by the agency and are discussed in detail in comment 3 below. Because the record clearly demonstrates the agency's willingness to consider nausea and vomiting claims other than those associated with motion sickness, the agency concludes that a hearing on the issue of whether the agency has unreasonably narrowed the scope of the monograph is not warranted.

References

(1) Covarrubias, J., "Pepto-Bismol—Mexico Study," unpublished study no. 73069–195–76–02–339, Comment Nos. 0B0069 and C00081, Docket No. 78N–036A, Dockets Management Branch.

(2) DuPont, H. L., et al., "Symptomatic Treatment of Diarrhea with Bismuth Subsalicylate Among Students Attending a Mexican University," *Gastroenterology*, 73:715–718, 1977.

2. One comment claimed that FDA has unreasonably transferred nausea claims associated with "upset stomach" to the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, arguing that the agency has intentionally been delaying consideration of the "upset stomach" issue. The comment added that this situation has resulted in confusion regarding where and how to submit documentation on the effectiveness of bismuth subsalicylate or any other ingredient in treating nausea associated with conditions other than motion sickness. The comment requested that data on the effectiveness of bismuth subsalicylate in treating nausea associated with "upset stomach and/or indigestion" be reviewed for inclusion in the OTC antiemetic final monograph. The comment also requested a hearing on this issue.

As the agency stated in the antiemetic tentative final monograph (44 FR 41067), "upset stomach" (which may include nausea, indigestion, pain, fullness, distention, or pressure) caused by overindulgence in food or drink was referred to the Advisory Review Panel on OTC Miscellaneous Internal Drug Products (Miscellaneous Internal Panel). The agency does not believe it was unreasonable to refer these claims to the Miscellaneous Internal Panel because that Panel was charged with the responsibility of reviewing digestive aid and hangover remedy drug products. In its report on OTC Orally Administered Drug Products for Relief of Symptoms Associated With Overindulgence in Alcohol and Food, published in the **Federal Register** of October 1, 1982 (47 FR 43540), the Panel recommended Category I status for bismuth subsalicylate for the relief of upset stomach due to overindulgence in the combination of food and drink. The Panel also recommended that a claim for the relief of upset stomach "associated with nausea" due to such overindulgence be allowed for this ingredient. The agency's tentative conclusions on claims associated with overindulgence will be presented in a future **Federal Register** publication. If the agency concurs with the Panel findings, the antiemetic final monograph will be amended to include the nausea claim.

The agency has clarified on several occasions that the claims referred to by the comment, i.e., "upset stomach" or "indigestion," including the nausea symptom, are not being considered in the antiemetic rulemaking, but are being considered in the overindulgence rulemaking. The information in support of bismuth subsalicylate for these claims submitted by the comment to the antiemetic rulemaking has also been submitted to the appropriate docket. Agency review of that information is in progress. Because consideration of the "upset stomach" issue is pending completion of the rulemaking on OTC drug products for relief of symptoms of overindulgence in food and drink, the agency concludes that a hearing on this issue is not warranted at this time.

B. Comments on Antiemetic Active Ingredients

3. One comment cited five studies (Refs. 1 through 5) to support the effectiveness of bismuth subsalicylate in treating nausea of gastrointestinal origin and proposed the claims "nausea associated with diarrhea," "upset stomach associated with nausea," "nausea," and "queasiness" as Category I labeling for this condition. The comment also requested a hearing on the safety and effectiveness of bismuth subsalicylate for the prevention and treatment of nausea associated with diarrhea.

Three of the five studies (Refs. 1, 2, and 3) relate to the use of bismuth subsalicylate in treating symptoms associated with overindulgence in food and alcohol. (As discussed in comment 2 above, the agency's tentative conclusions on claims associated with

overindulgence will be presented in a future **Federal Register** publication.)

The remaining two studies (Refs. 4 and 5) provide data on the use of bismuth subsalicylate for treating nausea associated with diarrhea. However, these data are insufficient to establish the effectiveness of bismuth subsalicylate for such use. The agency's evaluation of these two studies follows.

Covarrubias Study (Ref. 4). This randomized parallel group study compared the effectiveness of a bismuth subsalicylate, salol, and zinc phenolsulfonate formulation, a bismuth subsalicylate formulation, and a kaolin-pectin formulation in relieving diarrhea. The subjects took two tablespoonsful of medication every ½ to 1 hour as needed until seven or eight doses were taken. Followup was at 6 hours after the initial dose and also at 12 hours, if no satisfactory relief was obtained at 6 hours. Of 144 patients studied, 111 had nausea associated with diarrhea (77 percent). The comment presented the results of a retrospective analysis of this study which specifically examined the three formulations' effectiveness in relieving nausea associated with diarrhea. Based on these results, the comment asserted that the bismuth subsalicylate formulation provides greater relief of nausea associated with diarrhea than the kaolin-pectin formulation, which was claimed to be not significantly better than a placebo.

The retrospective analysis presented the results for relief of nausea at 6 hours stratified by initial nausea severity and then statistically compared the results of bismuth subsalicylate and kaolin-pectin based on these stratifications. The sponsor's analyses considered only subjects for whom relief at 6 hours was reported. Sixteen subjects were listed as "not reported," and the results for these 16 subjects could change the results considerably. The p-value for the bismuth subsalicylate vs. kaolin-pectin comparison ranged from 0.06 to 0.29, depending on how the data were utilized, but even the best case does not show a statistically significant difference ($p < 0.05$) between these two treatment groups. No information was provided concerning the results after an additional 6 hours for those subjects who did not obtain relief after the initial 6-hour period. Therefore, the study does not support the effectiveness of bismuth subsalicylate in relieving nausea associated with diarrhea.

DuPont Study. The comment submitted only the published version of the DuPont study (Ref. 5). However, the agency also evaluated detailed statistical analyses of this study, which were submitted to the rulemaking on OTC antidiarrheal drug products, because these analyses contained additional relevant data and information (Refs. 6 and 7).

This double-blind, placebo-controlled study compared the effectiveness of bismuth subsalicylate with placebo in the treatment of diarrhea among students attending a Mexican university. The study was conducted in two sequential phases. Students in Phase I were given a 30-milliliter (mL) dose of a bismuth subsalicylate preparation every ½ hour for eight doses for a total dose of 4.2 grams (g), and students in Phase II were given twice this dose. Objective parameters assessed were frequency, consistency, weight, and water content of the stools. Subjective relief of the symptoms of diarrhea, nausea, vomiting, and abdominal pain or cramps was also assessed.

Results presented in the statistical analyses indicate that the overall comparison of nausea relief for students in Phase I did not show a statistically significant difference between bismuth subsalicylate and placebo at the 5-percent confidence level. Additionally, a significant difference between bismuth subsalicylate and placebo is not reported in the statistical analyses when the results of Phase I are stratified by student status, by initial severity of diarrhea, and by prior duration of diarrhea. A significant difference between bismuth subsalicylate and placebo is reported when the results of Phase I are stratified by etiology, but this difference is questionable because patients not classified as to etiology (16 of 61 cases or 26 percent) were omitted from the analysis.

Phase II results are not discussed here because recent reports in the literature (Refs. 8 through 11) indicate that the salicylate moiety is readily absorbable from bismuth subsalicylate, and the agency believes that the higher dose in the Phase II study presents a potential for toxicity without a compensating therapeutic benefit. In addition, the manufacturer has indicated that it is not interested in promoting the higher dose of bismuth subsalicylate used in Phase II (Ref. 12).

Because the submitted data do not provide sufficient evidence to demonstrate effectiveness, bismuth subsalicylate has not been included in the final monograph for antiemetic drug products.

(Note: As discussed in comment 2 above, nausea claims associated with upset stomach, indigestion, or overindulgence in food and alcohol are pending completion of other OTC drug rulemakings.)

After considering all available material relevant to the safety and effectiveness of bismuth subsalicylate for use in the prevention and treatment of nausea associated with diarrhea, the agency concludes that there are insufficient grounds to support a hearing on this matter. The evaluations of the Covarrubias and DuPont studies presented above point out significant deficiencies in these studies, so that these studies do not demonstrate the effectiveness of bismuth subsalicylate for this indication. There is a lack of substantial evidence to show that bismuth subsalicylate is effective in preventing or treating nausea associated with diarrhea. Accordingly, a hearing to discuss this issue would not be useful and is not warranted.

References

(1) Berkowitz, J.M., "Bismuth Subsalicylate in Excessive Alcohol/Food Intake," unpublished study No. 79023–195.73.438, in Comment No. C00081, Docket No. 78N–036A, Dockets Management Branch.

(2) Newsom, J.H., "Evaluation of Bismuth Subsalicylate in Relieving Symptoms of Indigestion," unpublished study No. 76031–195–76–11–497, in Comment No. C00081, Docket No. 78N–036A, Dockets Mangement Branch.

(3) Davis, S.S., "The Effectiveness of Pepto-Bismol in Gastrointestinal Upsets," unpublished study No. 73075–195.7602–347, in Comment No. C00081, Docket No. 78N–036A, Dockets Management Branch.

(4) Covarrubias, J., "Pepto-Bismol-Mexico Study," unpublished study No. 73069–195–76–02–339, in Comment Nos. 0B0069 and C00081, Docket No. 78N–036A, Dockets Management Branch.

(5) DuPont, H.L., et al., "Symptomatic Treatment of Diarrhea with Bismuth Subsalicylate Among Students Attending a Mexican University," *Gastroenterology*, 73:715–718, 1977.

(6) Comment No. C00074, Docket No. 78N–036D, Dockets Management Branch.

(7) Comment No. 0B052A, Docket No. 78N–036D, Dockets Management Branch.

(8) Feldman, S., et al., "Absorption of Salicylate from a Bismuth Subsalicylate Antidiarrheal Preparation (Pepto-Bismol)," *Clinical Pharmacology and Therapeutics*, 27:252, 1980.

(9) Feldman, et al., "Salicylate Absorption from a Bismuth Subsalicylate Preparation," *Clinical Pharmacology and Therapeutics*, 29:788–792, 1981.

(10) Unsigned Article, "Salicylate in Pepto-Bismol," *The Medical Letter on Drugs and Therapeutics*, 22:63, 1980.

(11) Pickering, L.K., et al., "Absorption of Salicylate and Bismuth from a Bismuth Salicylate-Containing Compound (Pepto-Bismol)," *The Journal of Pediatrics*, 99:654–656, 1981.

(12) Memorandum of meeting between Norwich-Eaton Pharmaceuticals and Division of OTC Drug Evaluation Staff, February 25, 1982, copy included in OTC Volume 090AFM.

4. One comment objected to the agency's conclusions that cyclizine hydrochloride, meclizine hydrochloride, and dimenhydrinate are safe for use in OTC antiemetic drug products for the prevention and treatment of nausea and vomiting associated with motion sickness and requested that these ingredients be reclassified to Category II. The comment claimed that mutagenicity and carcinogenicity data on these ingredients are insufficient to meet the agency's NDA safety requirements and, therefore, do not meet the statutory or scientific criteria for general recognition of safety.

Cyclizine hydrochloride, meclizine hydrochloride, and dimenhydrinate are currently the subjects of approved NDA's and the agency is unaware of any data demonstrating that any of these ingredients is a potential carcinogen or mutagen. Further, none of these drugs has been selected for bioassay testing as part of the National Toxicology Program's Carcinogenicity Testing Program (Ref. 1). Because the comment has not provided a sufficient basis for reclassifying cyclizine hydrochloride, meclizine hydrochloride, and dimenhydrinate to Category II, these ingredients are being included in the final monograph, based on the evidence available at the present time. If future evidence, e.g., results of bioassay testing, demonstrates an ingredient to be unsafe for OTC use, the agency will act to remove products containing that ingredient from the marketplace.

Reference

(1) Copy of a computer printout from the National Toxicology Program—Carcinogenicity Testing Program, OTC Volume 090AFM, Docket No. 78N–036A, Dockets Management Branch.

5. One comment requested reclassification of phosphorated carbohydrate from Category III to Category I and stated that data submitted to the Panel (Ref. 1) demonstrate the effectiveness of this ingredient. In addition, the comment submitted a published study claimed to show phosphorated carbohydrate's "mode of action" (Ref. 2) and two new clinical studies (420–3A and 420–4B) claimed to establish phosphorated carbohydrate's effectiveness in relieving nausea and vomiting (Ref. 3).

After reviewing and evaluating all of the available data, the agency concludes that they are insufficient to reclassify phosphorated carbohydrate in Category I. In the tentative final monograph (44 FR 41071), the agency concurred with the Panel that the material submitted on phosphorated carbohydrate was insufficient to demonstrate its effectiveness in the management of nausea and vomiting. The agency reaffirms that decision.

The submitted study on phosphorated carbohydrate's mechanism of action does not provide adequate evidence of effectiveness (Ref. 2). The study merely suggests that phosphorated carbohydrate may act as an antiemetic by inhibiting gastric emptying, but does not specifically discuss its effectiveness for this use. Also, the study included only five patients and was not a well-controlled clinical study in an appropriate target population.

Study 420–3A was a randomized, double-blind, parallel, placebo-controlled study designed to show the effectiveness of phosphorated carbohydrate for the control of vomiting due to nonspecific gastroenteritis in children aged 2 to 12 years (Ref. 3). Study 420–4B was similarly designed to show the effectiveness of phosphorated carbohydrate for the relief of nausea and vomiting in early pregnancy (Ref. 3). Both studies are inadequate because of unequal distribution of patients among investigators, which subsequently biased the results of the studies. The agency's detailed comments and evaluation of the data are on file with the Dockets Management Branch (Ref. 4).

Because the submitted data do not provide sufficient evidence to demonstrate effectiveness, phosphorated carbohydrate has not been included in the final monograph for OTC antiemetic drug products. However, the agency is aware that a manufacturer of this product is conducting additional studies to prove the effectiveness of phosphorated carbohydrate, and the results will be submitted to the agency in the near future (Refs. 5 and 6). If data establishing effectiveness of phosphorated carbohydrate as an OTC antiemetic are subsequently submitted to the agency, procedures to amend the monograph may be initiated under § 330.10(a)(12) of the regulations (21 CFR 330.10(a)(12)). Regulatory policy for nonmonograph products is set forth in the **Federal Register** of May 13, 1980 (see 45 FR 31424 to 31425).

References

(1) OTC Volume 090051.

(2) Houston, J.B. and G. Levy, "Effect of Carbonated Beverages and of an Antiemetic Containing Carbohydrate and Phosphoric Acid on Riboflavin Bioavailability and Salicylamide Biotransformation in Humans," *Journal of Pharmaceutical Sciences*, 64:1504–1507, 1975.

(3) Studies 420–3A and 420–4B, in Comment No. CP, Docket No. 78N–036A, Dockets Management Branch.

(4) Letter from W.E. Gilbertson, FDA, to R.F. Panner, William H. Rorer, Inc., coded LET002, Docket No. 78N–036A, Dockets Management Branch.

(5) Memorandum of telephone conversation between R. F. Panner, William H. Rorer, Inc., and D. L. Myers, FDA, September 10, 1982, coded MT0004, Docket No. 78N–036A, Dockets Management Branch.

(6) Memorandum of telephone conversation between R. F. Panner, William H. Rorer, Inc., and E. McGoodwin, FDA, August 26, 1986, copy included in OTC Volume 090AFM.

C. Comments on Labeling of Antiemetic Drug Products

6. One comment pointed out that the dimenhydrinate dose for children 2 to under 6 years of age was incorrectly stated in the tentative final monograph as every 6 to 8 years, instead of every 6 to 8 hours.

This error has been corrected in the final monograph.

7. One comment suggested that the warning in proposed § 336.50(c)(1)(i), which reads, "Drowsiness sometimes results from taking this product. Do not operate motor vehicles or other machinery or equipment while taking this product," be modified to include the word "dangerous" before the word machinery. The comment contended that this would exclude machinery such as small appliances from the warning.

The agency is not including the comment's suggested change in this final monograph because warning consumers to use care only when operating "dangerous" machinery may not be adequate. Consumers may not consider some machinery dangerous if operated by an alert individual, but any machinery is potentially dangerous if operated by a person who is drowsy.

In the tentative final monograph for OTC antihistamine drug products, published in the **Federal Register** of January 15, 1985 (50 FR 2200), the warning required for antihistamine-containing drug products regarding operating motor vehicles or machinery was combined with the warnings regarding drowsiness and alcoholic beverages. The agency concluded that combining these related warnings would be beneficial to consumers. In addition, the agency recognizes that sedative drugs and tranquilizers are known to have additive effects to the drowsiness effect of antihistamine drug products (Refs. 1 and 2). The agency concludes that the drowsiness warning should include sedatives and tranquilizers as other drugs that may intensify the drowsiness effect of antihistamines. Further, in the tentative final monograph for OTC antihistamine drug products, the agency recognized that there are

differences with respect to the degree of drowsiness depending on the ingredient and that a stronger warning regarding drowsiness may be necessary for certain ingredients (see 50 FR 2210). The agency recognizes that Roth and Tabachnick (Ref. 3) have classified the sedative effect for diphenhydramine and dimenhydrinate as "marked" whereas the sedative effect for meclizine and cyclizine is classified as "slight." Therefore, the word "marked" is being included in the drowsiness warning for the ingredients diphenhydramine hydrochloride and dimenhydrinate. The agency does not find it necessary to add the term "slight" to the existing warning for the other ingredients. Based on the above discussion the warnings have been revised in this final monograph to read as appropriate: "May cause drowsiness;" or "May cause marked drowsiness;" "alcohol, sedatives, and tranquilizers may increase the drowsiness effect. Avoid alcoholic beverages while taking this product. Do not take this product if you are taking sedatives or tranquilizers, without first consulting your doctor. Use caution when driving a motor vehicle or operating machinery." Although the warning in proposed § 336.50(c)(1)(i) included the words "machinery or equipment," the revised warning does not include the word "equipment" because the use of the word "machinery" sufficiently conveys the meaning intended by the warning.

References

(1) Douglas, W.W., "Histamine and 5-Hydroxytryptamine (Serotonin) and Their Agonists," *in* "The Pharmacological Basis of Therapeutics," 7th Ed., edited by A.G. Gilman et al., MacMillan Publishing Co., New York, p. 621, 1985.

(2) "Histamine and Antihistamines," in "Remington's Pharmaceutical Sciences," 17th Ed., edited by A.R. Gennero, Mack Publishing Co., Easton, PA, pp. 1125–1126, 1985.

(3) Roth, F.E., and I.I.A. Tabachnick, "Histamine and Antihistamine," *in* "Drill's Pharmacology in Medicine," 4th Ed., edited by J.R. DiPalma, McGraw-Hill Book Co., NY, p. 1009, 1971.

8. One comment noted that the warnings in proposed § 336.50(c) (2) and (3) for cyclizine hydrochloride and meclizine hydrochloride provide for the administration of these drugs to children of any age "under the advice and supervision of a physician," but a similar provision was not made for dimenhydrinate. The comment requested that a statement be added to the monograph to provide for the administration of dimenhydrinate to children under 2 years of age under the advice and supervision of a physician.

In the tentative final monograph, the agency proposed a warning for cyclizine hydrochloride not to give to children under 6 years of age and for meclizine hydrochloride not to give to children under 12 years of age, except under the advice and supervision of a physician (§ 336.50(c) (2) and (3)). The agency also proposed directions for use for dimenhydrinate for children 2 to under 6 years of age (§ 336.50(d)(2)), but inadvertently did not include a warning against giving dimenhydrinate to children under 2 years of age except under the advice and supervision of a physician. The agency agrees with the comment that a warning of this type should be required for products containing dimenhydrinate. Accordingly, the statement "Do not give to children under 2 years of age unless directed by a doctor" has been added to the warnings for dimenhydrinate.

9. One comment requested that the claim "dizziness of motion sickness" be included in the OTC labeling indications for dimenhydrinate, stating that dizziness is a self-diagnosable symptom of motion sickness and that the consumer should have the option to self-medicate for this symptom.

While dizziness or vertigo could be a symptom of conditions other than motion sickness, e.g., Meniere's syndrome, the agency agrees with the comment that dizziness specifically associated with motion sickness is a self-diagnosable symptom that is amenable to treatment with OTC drugs. Sources in the scientific literature confirm that dizziness or vertigo is a symptom of motion sickness (Refs. 1 and 2) and the effectiveness of dimenhydrinate in preventing or treating the symptom of dizziness associated with motion sickness has been adequately demonstrated in clinical trials (Refs. 3 and 4). Furthermore, in the Federal Register of July 29, 1977 (42 FR 38645), FDA published a Drug Efficacy Study Implementation (DESI) notice stating that prescription dimenhydrinate drug products in suppository or sterile solution form suitable for rectal or parenteral administration, respectively, are effective "for the prevention and treatment of the nausea, vomiting, or vertigo of motion sickness."

The literature sources cited above (Refs. 3 and 4) also demonstrate that cyclizine hydrochloride, diphenhydramine hydrochloride, and meclizine hydrochloride are effective in preventing or treating dizziness associated with motion sickness. Other supporting evidence for the effectiveness of these drugs in preventing or treating dizziness associated with motion sickness was contained in submissions to the Panel (Refs. 5, 6, and 7).

Accordingly, the indications in this final monograph for cyclizine hydrochloride, dimenhydrinate, diphenhydramine hydrochloride, and meclizine hydrochloride include the symptom of dizziness associated with motion sickness. The professional labeling also includes the indication "For the treatment of vertigo of motion sickness" for cyclizine hydrochloride and diphenhydramine hydrochloride.

References

(1) Reason, J.T., and J.J. Brand, "Motion Sickness," Academic Press, London, pp. 38–82, 1975.

(2) Money, K.E., "Motion Sickness," Physiological Reviews, 50:1–39, 1970.

(3) Arner, O., et al., "Antihistamines in Sea Sickness," *Archieves Internationales de Pharmacodynamie*, 117:404–418, 1958.

(4) Chinn, H.I., et al., "Evaluation of Drugs for Protection Against Motion Sickness Aboard Transport Ships," *Journal of the American Medical Association*, 160:755–760, 1956.

(5) OTC Volume 090040.

(6) OTC Volume 090041.

(7) OTC Volume 090066.

II. Summary of Significant Changes

1. Bismuth subsalicylate is not being included in the monograph at this time pending review of data submitted to the rulemaking on OTC drug products for relief of symptoms associated with overindulgence in alcohol and food. (See comment 3 above.)

2. In the tentative final monograph for OTC antiemetic drug products (44 FR 41066), FDA tentatively concluded that diphenhydramine hydrochloride should be Category III based on its apparent chemical and pharmacological similarity to dimenhydrinate. Although the effectiveness of diphenhydramine hydrochloride for use as an antiemetic in motion sickness was not in question, the agency concluded that additional evidence was needed to establish that the sedative effects of diphenhydramine hydrochloride are not significantly different from those of dimenhydrinate. The agency proposed that clinical studies be conducted to compare diphenhydramine hydrochloride with dimenhydrinate and to a placebo for the depth and length of drowsiness. No new data on diphenhydramine hydrochloride were submitted in response to the antiemetic tentative final order. However, subsequent to that publication, FDA made a final decision concerning the OTC marketing of diphenhydramine hydrochloride as an antitussive drug product (44 FR 51512), indicating that the risk of drowsiness alone as a side effect does not seem to

provide sufficient reason to restrict a drug to prescription use. The agency explained that drowsiness itself does not cause harm, and that it is only when the individual tries to undertake a task requiring alertness, such as driving a car, that risk is posed. In addition, FDA has approved a supplemental NDA for diphenhydramine hydrochloride to be marketed as an OTC antitussive and has proposed diphenhydramine hydrochloride as Category I in the tentative final monograph for OTC antihistamine drug products (50 FR 2206). Accordingly, FDA concludes that the risks presented by diphenhydramine hydrochloride for use as an antiemetic are not sufficient to warrant continued restriction to prescription status, provided that adequate warnings concerning the side effect of drowsiness are included in the labeling. FDA believes that the drowsiness and alcohol warning included in this final monograph is sufficient to warn consumers of the drowsiness side effect of diphenhydramine hydrochloride. (See comment 7 above.)

The agency, therefore, is including diphenhydramine hydrochloride in this final monograph for use as an OTC antiemetic at an adult dosage of 25 to 50 milligrams (mg) every 4 to 6 hours not to exceed 300 mg in 24 hours, and for children 6 to under 12 years of age at a dosage of 12.5 to 25 mg every 4 to 6 hours not to exceed 150 mg in 24 hours. In addition, the statement "Do not give to children under 6 years of age unless directed by a doctor" is included in the warnings for diphenhydramine hydrochloride.

3. Phosphorated carbohydrate is not being included in the monograph at this time as an ingredient for use as an OTC antiemetic. (See comment 5 above.)

4. Scopolamine hydrobromide was listed in the tentative final monograph as a Category III ingredient (44 FR 41070). Because no additional data were submitted to support the general recognition of safety and effectiveness of this ingredient as an OTC antiemetic, it is not included in the final monograph and is considered a nonmonograph ingredient.

5. The drowsiness and alcohol warnings for antiemetics containing antihistamines have been revised and combined to read, "May cause drowsiness;" or "May cause marked drowsiness;" "alcohol, sedatives, and tranquilizers may increase the drowsiness effect. Avoid alcoholic beverages while taking this product. Do not take this product if you are taking sedatives or tranquilizers, without first consulting your doctor. Use caution when driving a motor vehicle or operating machinery." The agency intends to include this revised warning in an amendment to the tentative final monograph for OTC antihistamine drug products, to be published in a future issue of the **Federal Register**. (See comment 7 above.)

6. The warning "Do not give to children under 2 years of age unless directed by a doctor" has been added for products containing dimenhydrinate. (See comment 8 above.)

7. The indication "For the prevention and treatment of nausea and vomiting associated with motion sickness" has been revised to read, "For the prevention and treatment of the nausea, vomiting, or dizziness associated with motion sickness." (See comment 9 above.)

8. The warning regarding the use of antihistamine drugs in persons with an enlarged prostate gland has been amended for clarity to include the presenting symptom "difficulty in urination." In addition, the warning has been expanded to be consistent with the warning proposed in the tentative final monograph for OTC antihistamine drug products to read "Do not take this product if you have asthma, glaucoma, emphysema, chronic pulmonary disease, shortness of breath, difficulty in breathing, or difficulty in urination due to enlargement of the prostate gland unless directed by a doctor." (For discussion of the need to expand the warning, see the **Federal Register** of January 15, 1985; 50 FR 2215.)

9. In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs on the basis that the word "doctor" is more commonly used and better understood by consumers. Based on comments received to these proposals, the agency has determined that final monographs and any applicable OTC drug regulation will give manufacturers the option of using either the word "physician" or the word "doctor." This final monograph includes that option. In addition, the phrase "except under the advice and supervision of a physician" has been changed to read, "unless directed by a doctor."

10. The agency has redesignated proposed Subpart D as Subpart C and has placed the labeling sections of the monograph in Subpart C.

III. The Agency's Final Conclusions on OTC Antiemetic Drug Products

Based on the available evidence, the agency is issuing a final monograph establishing conditions under which OTC antiemetic drug products are generally recognized as safe and effective and not misbranded. FDA has determined that cyclizine hydrochloride, dimenhydrinate, diphenhydramine hydrochloride, and meclizine hydrochloride are generally recognized as safe and effective for OTC use as antiemetic drugs. Any drug product marketed for use as an OTC antiemetic that is not in conformance with the monograph (21 CFR Part 338) will be considered a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) and misbranded under section 502(a) of the act (21 U.S.C. 352(a)) and may not be marketed for this use unless it is the subject of an approved NDA.

In the **Federal Register** of May 1, 1986 (51 FR 16258), the agency published a final rule changing its labeling policy for stating the indications for use of OTC drug products. Under the final rule, the label and labeling of OTC drug products are required to contain in a prominent and conspicuous location, either (1) the specific wording on indications for use established under an OTC drug monograph, which may appear within a boxed area designated "APPROVED USES"; (2) other wording describing such indications for use that meets the statutory prohibitions against false or misleading labeling, which shall neither appear within a boxed area nor be designated "APPROVED USES"; or (3) the approved monograph language on indications, which may appear within a boxed area designated "APPROVED USES," plus alternative language describing indications for use that is not false or misleading, which shall appear elsewhere in the labeling. All required OTC drug labeling other than indications for use (e.g., statement of identity, warnings, and directions) must appear in the specific wording established under an OTC drug monograph. The final rule in this document is subject to the final rule revising the labeling policy.

The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this final rule for OTC

antiemetic drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, the requirement for a Regulatory Flexibility Analysis under the Regulatory Flexibility Act does not apply to this final rule for OTC antiemetic drug products because the proposed rule was issued prior to January 1, 1981, and is therefore exempt. However, this particular rulemaking for OTC antiemetic drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

In the antiemetic tentative final monograph (44 FR 41068), the agency proposed that the existing regulations in 21 CFR 201.307 and 21 CFR 310.201(a)(6), which are superseded by the conditions established in this monograph, would be withdrawn at the time the final monograph became effective. The existing regulations in § 201.307 are based on available animal data that demonstrated that benzhydryl piperazine antihistamines (meclizine and cyclizine) exerted a teratogenic response in animals. However, FDA concluded in the tentative final monograph that, in light of more recent epidemiological data, a pregnancy warning would not be needed.

Subsequent to the publication of the antiemetic tentative final monograph, a general pregnancy-nursing warning for all OTC drug products intended for systemic absorption (21 CFR 201.63) became effective on December 5, 1983. Most manufacturers of OTC drug products containing cyclizine or meclizine have chosen to include the general pregnancy-nursing warning required by § 201.63 in the labeling of these drug products rather than the warning required by § 201.307. Also subsequent to publication of the antiemetic tentative final monograph, the agency has evaluated additional human epidemiological data (Ref. 1) and has determined that there is sufficient human experience to conclude that cyclizine and meclizine have not been established to be human teratogens. Therefore, based on these human data, the agency has concluded that the general pregnancy warning required by § 201.63 is sufficient for antiemetic drug products containing cyclizine or meclizine and a more specific warning for these drugs is not necessary. The requirements of § 201.307 with respect to cyclizine hydrochloride and meclizine hydrochloride are superseded by this document. The agency will address removal of § 201.307 in a future **Federal Register** publication.

The agency is removing § 310.201(a)(6) because the provisions of that regulation are superseded by the requirements of the antiemetic final monograph (Part 336). For this same reason, those portions of § 369.20 and § 369.21 applicable to meclizine and cyclizine and their salts are also being removed.

Reference

(1) Rosa, F., "Benzhydrylpiperazine (Cyclizines) Terato-Epidemiology," unpublished draft, June 25, 1985, in OTC Volume 090AFM, Docket No. 78N–036A, Dockets Management Branch.

List of Subjects

21 CFR Part 310

New drugs; Prescription exemption.

21 CFR Part 336

Labeling, Over-the-counter drugs, Antiemetic drug products.

21 CFR Part 369

OTC drugs; Warning and caution statements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 310—NEW DRUGS

1. The authority citation for 21 CFR Part 310 continues to read as follows:

Authority: Secs. 502, 503, 505, 701, 52 Stat. 1051, 1052, 1053, 1055 as amended (21 U.S.C. 352, 353, 355, 371); 5 U.S.C. 553; 21 CFR 5.10 and. 5.11.

§ 310.201 [Amended]

2. In Subpart C, § 310.201 *Exemption for certain drugs limited by new-drug applications to prescription sale* is amended by removing paragraph (a)(6), "Meclizine hydrochloride," and reserving it for future use.

PART 336—ANTIEMETIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

3. By adding new Part 336, to read as follows:

Subpart A—General Provisions

Sec.
336.1 Scope.
336.3 Definition.

Subpart B—Active Ingredients

336.10 Antiemetic active ingredients.

Subpart C—Labeling

336.50 Labeling of antiemetic drug products.
336.80 Professional labeling.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.10 and 5.11.

Subpart A—General Provisions

§ 336.1 Scope.

(a) An over-the-counter antiemetic drug product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this part and each of the general conditions established in § 330.1.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 336.3 Definition.

As used in this part:

Antiemetic. An agent that prevents or treats nausea and vomiting.

Subpart B—Active Ingredients

§ 336.10 Antiemetic active ingredients.

The active ingredient of the product consists of any of the following when used within the dosage limits established for each ingredient in § 336.50(d):

(a) Cyclizine hydrochloride.

(b) Dimenhydrinate.

(c) Diphenhydramine hydrochloride.

(d) Meclizine hydrochloride.

Subpart C—Labeling

§ 336.50 Labeling of antiemetic drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "antiemetic."

(b) *Indications.* The labeling of the product states the following under the heading "Indications," "For the prevention and treatment of the nausea, vomiting, or dizziness associated with motion sickness." Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed in this paragraph (b), may also be used, as provided in § 330.1(c)(2), subject to the

provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings:"

(1) *For products containing any ingredient identified in § 336.10.* "Do not take this product if you have asthma, glaucoma, emphysema, chronic pulmonary disease, shortness of breath, difficulty in breathing, or difficulty in urination due to enlargement of the prostate gland unless directed by a doctor."

(2) *For products containing cyclizine hydrochloride identified in § 336.10(a).* "Do not give to children under 6 years of age unless directed by a doctor."

(3) *For products containing dimenhydrinate identified in § 336.10(b).* "Do not give to children under 2 years of age unless directed by a doctor."

(4) *For products containing diphenhydramine hydrochloride identified in § 336.10(c).* "Do not give to children under 6 years of age unless directed by a doctor."

(5) *For products containing meclizine hydrochloride identified in § 336.10(d).* "Do not give to children under 12 years of age unless directed by a doctor."

(6) *For products containing cyclizine hydrochloride identified in § 336.10(a) or meclizine hydrochloride identified in § 330.10(d).* "May cause drowsiness; alcohol, sedatives, and tranquilizers may increase the drowsiness effect. Avoid alcoholic beverages while taking this product. Do not take this product if you are taking sedatives or tranquilizers, without first consulting your doctor. Use caution when driving a motor vehicle or operating machinery."

(7) *For products containing dimenhydrinate identified in § 336.10(b) or diphenhydramine hydrochloride identified in § 336.10(c).* "May cause marked drowsiness; alcohol, sedatives, and tranquilizers may increase the drowsiness effect. Avoid alcoholic beverages while taking this product. Do not take this product if you are taking sedatives or tranquilizers, without first consulting your doctor. Use caution when driving a motor vehicle or operating machinery."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) *For products containing cyclizine hydrochloride identified in § 336.10(a).* Adult oral dosage is 50 milligrams every 4 to 6 hours, not to exceed 200 milligrams in 24 hours or as directed by a doctor. For children 6 years of age and older, the oral dosage is 25 milligrams every 6 to 8 hours, not to exceed 75 milligrams in 24 hours or as directed by a doctor.

(2) *For products containing dimenhydrinate identified in § 336.10(b).* Adult oral dosage is 50 to 100 milligrams every 4 to 6 hours, not to exceed 400 milligrams in 24 hours or as directed by a doctor. For children 6 to under 12 years of age, the oral dosage is 25 to 50 milligrams every 6 to 8 hours, not to exceed 150 milligrams in 24 hours or as directed by a doctor. For children 2 to under 6 years of age, the oral dosage is 12.5 to 25 milligrams every 6 to 8 hours, not to exceed 75 milligrams in 24 hours or as directed by a doctor.

(3) *For products containing diphenhydramine hydrochloride identified in § 336.10(c).* Adult oral dosage is 25 to 50 milligrams every 4 to 6 hours, not to exceed 300 milligrams in 24 hours or as directed by a doctor. For children 6 to under 12 years of age, the oral dosage is 12.5 to 25 milligrams every 4 to 6 hours, not to exceed 150 milligrams in 24 hours or as directed by a doctor.

(4) *For products containing meclizine hydrochloride identified in § 336.10(d).* Adult oral dosage is 25 to 50 milligrams once daily or as directed by a doctor.

(e) The word "physician" may be substituted for the word "doctor" in any of the labeling statements in this section.

§ 336.80 Professional labeling.

The labeling provided to health professionals (but not to the general public) may contain the following additional indications.

(a) *For products containing cyclizine hydrochloride, dimenhydrinate, and diphenhydramine hydrochloride identified in § 336.10 (a), (b), and (c).* "For the treatment of vertigo of motion sickness."

(b) *For products containing meclizine hydrochloride identified in § 336.10(d).* "For the treatment of vertigo."

PART 369—INTERPRETATIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

4. The authority citation for 21 CFR Part 369 continues to read as follows:

Authority: Secs. 502, 503, 506, 507, 701, 52 Stat. 1050–1052 as amended, 55 Stat. 851, 59 Stat. 463 as amended, 52 Stat. 1055–1056 as amended (21 U.S.C. 352, 353, 356, 357, 371); 21 CFR 5.10 and 5.11.

§ 369.20 [Amended]

5. In Subpart B, § 369.20 *Drugs; recommended warning and caution statements* is amended by removing that portion of the entry for "ANTIHISTAMINICS, ORAL" pertaining specifically to cyclizine.

§ 369.21 [Amended]

6. In Subpart B, § 369.21 *Drugs; warning and caution statements required by regulations* is amended by removing that portion of the entry for "ANTIHISTAMINICS, ORAL (PHENYLTOLOXAMINE DIHYDROGEN CITRATE, MECLIZINE HYDROCHLORIDE, DOXYLAMINE SUCCINATE, CHLOROTHEN CITRATE, CYCLIZINE HYDROCHLORIDE, AND CHLORCYCLIZINE HYDROCHLORIDE PREPARATIONS)" Pertaining specifically to cyclizine, cyclizine hydrochloride, meclizine, and meclizine hydrochloride.

Dated: March 1, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87–9731 Filed 4–29–87; 8:45 am]

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federal register

Thursday
April 30, 1987

Part VI

Department of Education

34 CFR Part 215

Elementary and Secondary Education; Follow Through Program; Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 215

Elementary and Secondary Education; Follow Through Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations for the Follow Through Program. These proposed regulations include changes made to comply with the requirements of Executive Order 12291 and its overall objective of reducing regulatory burden and changes made by the Human Services Reauthorization Act of 1986. The proposed regulations also provide for a significant redirection of the program by placing greater emphasis on the demonstration and dissemination of effective approaches designed to improve the school performance of low-income children in kindergarten and primary grades. In addition, these proposed regulations expand the eligible applicants to include new as well as existing grantees.

DATE: Comments must be received on or before June 15, 1987.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Ms. Mary Jean LeTendre, Director, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW (Room 2047–MS 6276), Washington, DC 20202.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget (OMB) at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Dr. James Spillane, 400 Maryland Avenue, SW., Washington, DC 20202, Telephone: (202) 732–4694.

SUPPLEMENTARY INFORMATION:

A. Overview of the Follow Through Program

The Follow Through Program was originally authorized by the 1967 amendments to the Economic Opportunity Act of 1964. The program was enacted as a "follow through" to Head Start, with provisions for the same comprehensive services and strong parent involvement. Since 1968, Follow Through has offered, in a research setting, comprehensive services to children from low-income families. The program has primarily served children in kindergarten and primary grades who were previously enrolled in Head Start or similar preschool programs.

The principal goal of Follow Through has been to develop knowledge about various educational practices that can assist low-income children in developing to their full potential. Central to this focus was the strategy of "planned variation," whereby a number of different approaches to early childhood education were implemented in local Follow Through projects. The developers of these approaches have been called "sponsors." Most local projects have chosen to work with sponsors, although a small number have implemented approaches that they themselves have developed. Some local projects have also served as resource centers to demonstrate their effective practices.

The current Follow Through regulations were published in the **Federal Register** on April 24, 1975 (40 FR 17712) and amended on June 29, 1977 (42 FR 33146). To provide for longitudinal data collection and eventual phaseout of the program, the current regulations have restricted participation in the program to continuing projects and sponsors.

B. Reauthorization of Follow Through

Follow Through was scheduled to be phased into Chapter 2 of the Education Consolidation and Improvement Act of 1981 and thereby repealed as a categorical program by the end of Fiscal Year (FY) 1984. It was subsequently reauthorized through FY 1986, however, by the Human Services Reauthorization Act of 1984. The Human Services Reauthorization Act of 1986 has now reauthorized Follow Through through FY 1990. The legislative history accompanying this reauthorization makes clear that Follow Through is to be a competitive grant program and that the grant award process should consider new as well as existing grantees.

To implement this legislative history, the Secretary proposes to make significant changes in the grant award process. The Secretary proposes to award two types of Follow Through grants. One type would be local project grants, including grants to local projects affiliated with a sponsor and grants to self-sponsored local projects. The other type would be sponsor grants. The Secretary does not propose to award grants for resource centers.

In awarding these grants, the Secretary proposes to hold two competitions. One competition would be among joint local project-sponsor applications. To apply, one to five local project applicants would affiliate with a sponsor and would submit a joint application with the sponsor. However, separate grants would be made to each local project and each sponsor. The other competition would be among self-sponsored local project applications. To apply under this second competition, local project applicants not affiliated with a sponsor would submit individual applications. The Secretary anticipates that applications would be submitted by new applicants and existing grantees under both competitions.

In addition to opening the program to new applicants, these proposed regulations provide for a significant redirection of Follow Through. Although the program would continue to provide comprehensive services to low-income children in kindergarten and primary grades, greater emphasis would be placed on the demonstration and dissemination of effective approaches specifically designed to improve the school performance of those children. Because education is an extraordinarily effective means of escaping poverty for disadvantaged children, the Secretary is particularly interested in studying, publicizing, and replicating what works for educating children from poor families. As a result, the Secretary invites local educational agencies, institutions of higher education, and other appropriate agencies that have found successful approaches for improving the school performance of children from low-income families to apply for Follow Through grants so that those approaches may be demonstrated and disseminated to public and private schools.

In general, these proposed regulations reduce regulatory burdens on Follow Through applicants and grantees by eliminating excessive paperwork and other burdensome requirements. Moreover, these proposed regulations are not overly prescriptive. Instead, the proposed regulations leave as many decisions as possible to local discretion.

C. Summary of Provisions in These Proposed Regulations

Subpart A—General

As §§ 215.2 and 215.3 indicate, the Secretary intends to award two types of Follow Through grants: local project grants, which are made to local educational agencies (LEAs); and sponsor grants, which may be made to institutions of higher education, regional educational laboratories, or other appropriate public or private nonprofit

agencies. The Secretary expects to support multi-year projects.

Section 215.4 describes a local Follow Through project. Essentially, a local project provides comprehensive educational and support services to low-income children in kindergarten and primary grades, involves parents in developing, conducting, and directing those services, and demonstrates effective practices to persons interested in adopting those practices for use in other public and private schools.

As § 215.4(a) indicates, a local project must include a number of components. First, a local project must contain an educational component that includes implementation of an innovative educational approach and training of Follow Through staff, parents, and other appropriate personnel. Second, a local project must contain a parent participation component that provides for the active participation of Follow Through parents in the development, conduct, and overall direction of the local project. To be beneficial, this participation must be meaningful and substantive. However, it may take a variety of forms, best determined by the local projects that receive Follow Through funds. Unlike the current regulations, therefore, these proposed regulations do not require a local project to establish a parent advisory council. Rather, § 215.4(a)(2) lists a number of activities a local project may consider in providing for active parent participation. Whatever activities for involving parents are selected, the underlying objective must be to ensure that parents are effectively informed of their children's progress and encouraged and assisted in efforts to sustain or enhance that progress.

Third, a project must contain a support services component that provides health, social, nutritional, and other support services to aid the continued development of Follow Through children to their full potential. Rather than mandating a number of specific support services, § 215.4(a)(3) consolidates support services into a single component, allowing applicants to select from a range of services to meet local needs. Fourth, a local project must contain a demonstration component. Finally, a self-sponsored local project, but not a sponsored local project, must contain a dissemination component that provides for the dissemination of effective Follow Through practices to public and private school officials.

Except as needed to implement § 215.33, § 215.4(b) requires a local project to be conducted in only one school unless the Secretary determines that particular circumstances warrant inclusion of more than one school. The Secretary believes this restriction is necessary to provide greater focus to the project commensurate with the appropriation level. Moreover, in view of the emphasis on demonstration and dissemination activities associated with these grants, the Secretary believes that a project located in one school will be better able to demonstrate effective Follow Through practices. The Secretary may approve the inclusion of more than one school if, for example, two schools are necessary in order to provide services at several grade levels.

Section 215.5 describes a Follow Through sponsor. As that section indicates, a sponsor must have developed an innovative educational approach specifically designed to improve the school performance of low-income children in kindergarten and primary grades. A sponsor assists local projects with which it is affiliated in implementing the approach, and demonstrates and disseminates effective Follow Through practices.

Section 215.6 indicates that a local Follow Through project must serve primarily low-income children in kindergarten and primary grades who have had preschool experience. At least sixty percent of those children must be from low-income families and at least sixty percent must have had preschool experience. Children determined to be low-income at the time they are enrolled in a local project may be considered to be low-income for the duration of their participation in the project. The definition of "low-income Follow Through children" in § 215.8(b) allows each local project applicant to determine, using the best available data, which children are low-income.

Subpart B—How Does One Apply for an Award?

Under § 215.10, an applicant may apply for a grant to operate a local Follow Through project in two ways. An applicant may submit a joint application with a sponsor whose approach the applicant will implement. Nothing in the regulations precludes such an applicant from applying to operate separate projects with more than one sponsor. An applicant need not be currently operating a local Follow Through project. Rather, new applicants may apply with existing or new sponsors. For the convenience of new applicants, the application package will contain a list of existing sponsors and the approaches they have developed. As § 215.10(a) indicates, no more than five local project applicants may apply with any sponsor. This limitation is consistent with the Secretary's intent to emphasize the use of Federal funds for demonstration and dissemination of effective Follow Through practices, rather than for direct services. The Secretary believes that a maximum of five local sites will provide sufficiently diverse circumstances for a sponsor to demonstrate the versatility of its approach.

A joint application consists of several parts, depending on the number of local project applicants that affiliate with a given sponsor. At a minimum, a joint application must include a sponsor application and at least one local project application. It may include as many as five local project applications. It is the responsibility of the sponsor to submit the joint application.

A local project applicant may also submit an application without affiliating with a sponsor. However, the applicant must have developed or implemented an innovative educational approach specifically designed to improve the school performance of low-income children in kindergarten and primary grades. Self-sponsored applicants may be current Follow Through grantees, past Follow Through grantees, or new applicants.

Section 215.11 indicates how an applicant may apply to be a sponsor. To apply, the applicant must have developed an innovative educational approach specifically designed to improve the school performance of low-income children in kindergarten and primary grades. However, the applicant need not be a current Follow Through sponsor. In fact, the Secretary specifically invites new applicants that have developed appropriate educational approaches to apply. As indicated in § 215.11, a sponsor must apply with at least one local project that will implement the sponsor's approach but may apply with as many as five local projects. It is the responsibility of the sponsor to select the local projects with which it will apply.

Subpart C—How Does the Secretary Make an Award?

Section 215.20 describes how the Secretary evaluates applications for Follow Through grants. In general, an applicant for each type of grant may receive up to 100 points for the selection criteria in each applicable section of the proposed regulations. The maximum possible score for each criterion is indicated in parentheses. The better the applicant's plan concerning each criterion, *e.g.*, parent involvement, the more points the applicant will receive. For self-sponsored local project applications, the Secretary uses the

criteria in § 215.21 and awards up to 100 points for each application. For a joint local project-sponsor application, the Secretary uses the criteria in § 215.22 to evaluate each application for a local project and the criteria in § 215.23 to evaluate the application of the sponsor. To obtain a total score for a joint application, the Secretary averages the points awarded to all the local project applications contained in the joint application and adds that average local project score to the sponsor's score. As a result, a joint application may have a maximum score of 2000 points.

With two exceptions, the criteria in §§ 215.21 and 215.22 are the same for applicants for sponsored and self-sponsored local projects. One difference concerns the educational component. As indicated in § 215.21(a), an applicant for a self-sponsored local project must have developed or implemented an innovative educational approach specifically designed to improve the school performance of low-income children in kindergarten and primary grades. In contrast, under § 215.22(a), the Secretary determines the capability of an applicant for a sponsored local project to implement a sponsor's approach. Thus, an applicant for a sponsored local project does not have to have developed or implemented an approach in order to receive a grant. The other difference concerns the criterion on dissemination in § 215.21(e), which applies only to self-sponsored local projects. In the case of sponsored local projects, sponsors will handle dissemination.

Section 215.23 contains the selection criteria the Secretary uses to evaluate sponsor applications. New applicants, as well as existing sponsors, may apply, so long as each applicant has developed an appropriate educational approach.

Section 215.24 indicates other factors the Secretary considers in awarding a Follow Through grant. As § 215.24 (a) through (b) indicates, the Secretary prepares separate rank orderings of the self-sponsored local project applications and the joint local project-sponsor applications. From the total funds appropriated for Follow Through, the Secretary determines the amount of funds available for self-sponsored local project applications and the amount available for joint local project-sponsor applications. Then, the Secretary makes awards until the funds set aside for each type of application are exhausted. As § 215.24(c) indicates, the Secretary awards a local project grant—for both sponsored and self-sponsored projects—only if the applicant obtains a rating of at least 70 points and meets the requirements in § 215.4(a). Similarly, § 215.24(d) indicates that the Secretary awards a sponsor grant only if a grant will be made to at least one local project that will implement the sponsor's approach. However, the Secretary does not award a grant to any local project included in a joint application, even if the local project applicant scores 70 points or more, if the joint application does not rank sufficiently high to receive funding.

Subpart D—What Conditions Must Be Met by a Grantee?

Both §§ 215.30(a) and 215.31(b) require local project and sponsor grantees to appoint project directors. Those directors may be employed full or part-time in Follow Through activities.

Section 215.32 contains the fiscal requirements that apply to local project grantees. Section 215.32(a) requires a local project to use Follow Through funds for services that are in addition to, and not in substitution for, services previously provided without Federal assistance. To meet this requirement, a local project grantee must contribute for the education of the children participating in the Follow Through project, at a minimum, the level of funds that would, in the absence of Follow Through funds, be made available from non-Federal sources for the education of those children. Section 215.32(b) prohibits a local project from using Follow Through funds to pay for more than 80 percent of the total costs of the project, unless the Secretary approves a greater percentage. Section 215.33 contains the requirements for the participation of private school children in a local project. Section 215.34 establishes a comprehensive design of the general evaluation requirements and standards that a grantee must meet in carrying out an annual evaluation of a project.

Subpart E—What Compliance Procedures May the Secretary Use?

Section 215.40 reflects the repeal of section 668(b) of the Follow Through Act by the Human Services Reauthorization Act of 1986. Section 668(b) prohibited the Secretary from denying an application for refunding unless the grantee had been given notice and an opportunity to show cause and from suspending Follow Through funds for failure to comply with applicable terms and conditions except in emergency situations. The Secretary may now deny refunding without providing notice and an opportunity to show cause. Suspension and termination of Follow Through funds are governed by the applicable provisions in 34 CFR Parts 74 and 78.

Executive Order 12291

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

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by these regulations are small LEAs receiving Federal financial assistance under this program. However, the regulations would not impose excessive regulatory burden or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 215.21, 215.22, and 215.23 contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to OMB for its review. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Joseph F. Lackey, Jr.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during

and after the comment period, in Room 2047, 400 Maryland Avenue, SW., Washington, DC between the hours of 8:30 a.m. and 4:00 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 Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found 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 Subject in 34 CFR Part 215

Education, Education of disadvantaged, Education—research, Elementary and secondary education, Grant programs—education, Private schools, Reporting and recordkeeping requirements.

Dated: April 27, 1987.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.014, Follow Through Program)

The Secretary proposes to revise Part 215 of Title 34 of the Code of Federal Regulations to read as follows:

PART 215—FOLLOW THROUGH PROGRAM

Subpart A—General

Sec.

215.1 What is the Follow Through Program?
215.2 What types of grants does the Secretary award?
215.3 Who is eligible for an award?
215.4 What does a local Follow Through project do?
215.5 What does a Follow Through sponsor do?
215.6 What children may participate in a local Follow Through project?
215.7 What regulations apply?
215.8 What definitions apply?
215.9 [Reserved]

Subpart B—How Does One Apply for an Award?

215.10 How does an applicant apply to operate a local Follow Through project?
215.11 How does an applicant apply to be a Follow Through sponsor?
215.12–215.19 [Reserved]

Subpart C—How Does the Secretary Make an Award?

215.20 How does the Secretary evaluate an application for a Follow Through grant?
215.21 What selection criteria does the Secretary use for self-sponsored local Follow Through project applications?
215.22 What selection criteria does the Secretary use for sponsored local Follow Through project applications?
215.23 What selection criteria does the Secretary use for Follow Through sponsor applications?
215.24 What other factors does the Secretary consider in awarding a Follow Through grant?
215.25–215.29 [Reserved]

Subpart D—What Conditions Must Be Met by a Grantee?

215.30 What program requirements must a local project grantee meet?
215.31 What program requirements must a sponsor meet?
215.32 What fiscal requirements must a local project grantee meet?
215.33 What are the requirements for participation of private school children?
215.34 What evaluation requirements apply to a grantee?
215.35–215.39 [Reserved]

Subpart E—What Compliance Procedures May the Secretary Use?

215.40 What procedures does the Secretary use before terminating a grant?
215.41–215.49 [Reserved]

Authority: 42 U.S.C. 9861–9868.

Subpart A—General

§ 215.1 What is the Follow Through Program

Follow Through is a program that serves primarily low-income children in kindergarten and primary grades who were previously enrolled in Head Start or similar preschool programs, including other federally assisted preschool programs of a compensatory nature. The goals of the program are to—

(a) provide comprehensive services that will help these children develop to their full potential;

(b) Achieve active parent participation in the development, conduct, and overall direction of services to these children;

(c) Produce knowledge about innovative educational approaches specifically designed to assist these children in their continued growth and development; and

(d) Demonstrate and disseminate effective Follow Through practices.

(Authority: 42 U.S.C. 9861, 9863)

§ 215.2 What types of grants does the Secretary award?

The Secretary awards two types of Follow Through grants:

(a) Local project grants, including grants for—

(1) Local projects affiliated with a sponsor; and

(2) Self-sponsored local projects.

(b) Sponsor grants.

(Authority: 42 U.S.C. 9861 (a), (c), 9863(a), 9866)

§ 215.3 Who is eligible for an award?

(a) *Local Follow Through projects.* (1) Except as provided in paragraph (a)(2) of this section and § 215.33(b), the Secretary awards local Follow Through project grants to local educational agencies (LEAs).

(2) The Secretary may award a grant to another public or appropriate private nonprofit agency, organization, or institution if the Secretary determines it is necessary to include in Follow Through significant numbers of eligible children who are not or cannot be served by an LEA.

(b) *Sponsors.* The Secretary may award Follow Through sponsor grants to—

(1) Institutions of higher education;

(2) Regional educational laboratories; or

(3) Other appropriate public or private nonprofit agencies, organizations, or institutions.

(Authority: 42 U.S.C. 9861(a), (b), 9863(a) 9866)

§ 215.4 What does a local Follow Through project do?

(a) Unless the Secretary in particular cases specifies otherwise, a local Follow Through project must include the following components:

(1) An educational component that includes—

(i) Implementation of an innovative educational approach specifically designed to improve the school performance of low-income children in kindergarten and primary grades; and

(ii) Orientation and training for Follow Through staff, parents, and other appropriate personnel.

(2) A parent participation component that provides for the active participation of Follow Through parents in the development, conduct, and overall direction of the local project, including activities such as—

(i) Notifying each child's parents in a timely manner that the child has been selected to participate in Follow Through;

(ii) Informing each child's parents of the specific instructional objectives for the child;

(iii) Reporting to each child's parents on the child's progress;

(iv) Establishing conferences between individual parents and teachers;

(v) Providing materials, suggestions, and training to parents to help them work with their children at home;

(vi) Providing timely information concerning the Follow Through Program including, for example, program plans and evaluations;

(vii) Soliciting parents' suggestions in the development, conduct, and overall direction of the project;

(viii) Consulting with parents about how the school can work with parents to achieve the program's objectives;

(ix) Providing timely responses to parents' recommendations;

(x) Facilitating volunteer or paid participation by parents in the project; and

(xi) Establishing parent advisory councils.

(3) A support services component that provides health, social, nutritional, and other support services to aid the continued development of Follow Through children to their full potential.

(4) A demonstration component that affords opportunities to examine in operation, and to assess the qualities of, effective Follow Through practices for the purpose of encouraging adoption of those practices by other public and private schools having similar educational needs.

(5) For self-sponsored local projects, a dissemination component that provides for the dissemination of effective Follow Through practices to public and private school officials, including—

(i) Encouraging adoption of those effective practices by other public and private schools;

(ii) Providing training and technical assistance to persons interested in adopting the effective practices; and

(iii) Following the progress of the adopted practices.

(b) Except as needed to implement § 215.33, a local Follow Through project must be conducted in only one school, unless the Secretary determines that particular circumstances warrant inclusion of more than one school.

(Authority: 42 U.S.C. 9861(a), (c))

§ 215.5 What does a Follow Through sponsor do?

A Follow Through sponsor shall—

(a) Assist local Follow Through projects affiliated with the sponsor in implementing the innovative educational approach specifically developed by the sponsor to improve the school performance of low-income children in kindergarten and primary grades by–

(1) Providing orientation and training to Follow Through staff, parents, and other appropriate personnel;

(2) Recommending or making available necessary materials;

(3) Identifying available public and private resources that can contribute to the development of a comprehensive project;

(4) Monitoring implementation;

(5) Evaluating or participating in the evaluation of the effectiveness of the project; and

(6) Providing additional technical assistance, as appropriate; and

(b) Demonstrate and disseminate effective Follow Through practices to public and private school officials by—

(1) Encouraging adoption of those effective practices by other public and private schools;

(2) Providing training and technical assistance to persons interested in adopting the effective practices; and

(3) Following the progress of the adopted practices.

(Authority: 42 U.S.C. 9863(a), 9866)

§ 215.6 What children may participate in a local Follow Through project?

(a) A local Follow Through project must serve primarily low-income children enrolled in kindergarten and primary grades who have participated in a full-year Head Start or similar preschool program, including other federally assisted preschool programs of a compensatory nature.

(b) To meet the requirement in paragraph (a) of this section, a local project must ensure that at least—

(1) Sixty percent of the children enrolled in the project are from low-income families; and

(2) Sixty percent of the children have had preschool experience as described in paragraph (a) of this section.

(c) Children determined to be low-income at the time they are enrolled in a local Follow Through project may be considered to be low-income for the duration of their participation in the project.

(Authority: 42 U.S.C. 9861(a), (c))

§ 215.7 What regulations apply?

The following regulations apply to the Follow Through Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(b) The regulations in this Part 215.

(Authority: 42 U.S.C. 9861–9868)

§ 215.8 What definitions apply?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Budget
EDGAR
Elementary school
Equipment
Grant
Grantee
Local educational agency
Materials
Nonprofit
Preschool
Private
Project
Public
Secretary
Supplies

(b) *Other definitions.* The following definitions also apply to this part:

"Approach" means a coherent, innovative educational strategy—based on one or more theories of child growth and development—that is specifically designed to improve the school performance of low-income children in kindergarten and primary grades. An approach consists of at least—

(1) Classroom or home-based teaching and management practices;

(2) Required or suggested curriculum materials;

(3) Provisions for regular staff training and monitoring; and

(4) Evaluation procedures.

"Follow Through children" means all children participating in a local Follow Through project.

"Follow Through parent" means a parent, legal guardian, or other person acting in the place of a parent of a child who is or will be participating in a local Follow Through project.

"Follow Through staff" means all persons who are employed full- or part-time in a local Follow Through project, whether or not they are paid with Federal Follow Through funds.

"Low-income Follow Through children" means children participating in a local Follow Through project from families whom the applicant has determined, using the best available data, to be low-income. Examples of data the applicant may use include eligibility under the National School Lunch Program, data on children from families receiving Aid to Families with Dependent Children, or other appropriate measures for determining low-income status.

"Primary grades" means grades one through three inclusive.

(Authority: 42 U.S.C. 9861–9868)

§ 215.9 [Reserved]

Subpart B—How Does One Apply for an Award?

§ 215.10 How does an applicant apply to operate a local Follow Through project?

An applicant may apply for a grant to operate a local Follow Through project in two ways:

(a) *Joint local project-sponsor application.* A local project applicant shall submit a joint application with a sponsor whose approach the applicant will implement, except that no more than five local project applicants may apply with any sponsor.

(b) *Self-sponsored local project application.* A local project applicant shall submit an application without affiliating with a sponsor if the applicant has developed or implemented an innovative educational approach specifically designed to improve the school performance of low-income children in kindergarten and primary grades.

(Authority: 42 U.S.C. 9861 (a), (c))

§ 215.11 How does an applicant apply to be a Follow Through sponsor?

An applicant for a grant to be a Follow Through sponsor shall submit a joint application with one or more local projects that will implement the innovative educational approach developed by the sponsor, except that a sponsor may apply with no more than five local projects.

(Authority: 42 U.S.C. 9863(a), 9866)

§§ 215.12–215.19 [Reserved]

Subart C—How Does the Secretary Make an Award?

§ 215.20 How does the Secretary evaluate an application for a Follow Through grant?

(a) *General.* (1) For each type of grant, the Secretary awards up to 100 possible points for the selection criteria in each applicable section of these regulations.

(2) The maximum possible score for each criterion is indicated in parentheses.

(b) *Self-sponsored local project application.* The Secretary uses the criteria in § 215.21 to evaluate each application for a self-sponsored local project.

(c) *Joint local project-sponsor application.* (1) The Secretary uses the criteria in § 215.22 to evaluate each application for a sponsored local project contained in a joint application.

(2) The Secretary uses the criteria in § 215.23 to evaluate the application of the sponsor contained in a joint application.

(3) To obtain a total score for a joint application, the Secretary—

(i) Averages the points awarded to all the local project applicants contained in the joint application; and

(ii) Adds that local project average score to the sponsor's score.

(Authority: 42 U.S.C. 9861 (a), (c), 9863(a), 9866)

§ 215.21 What selection criteria does the Secretary use for self-sponsored local Follow Through project applications?

(a) *Educational component.* (25 points) The Secretary reviews each application for a self-sponsored local Follow Through project to determine the effectiveness of the innovative educational approach the applicant has developed or implemented to improve the school performance of low-income children in kindergarten and primary grades. The Secretary also reviews each application for the percentage of low-income children who will participate in the project.

(b) *Parent participation component.* (20 points) The Secretary reviews each application to determine the quality of the applicant's plan to provide for active participation of Follow Through parents in the development, conduct, and overall direction of project activities.

(c) *Support services component.* (10 points) The Secretary reviews each application to determine the quality of the support services the applicant will provide to Follow Through children.

(d) *Demonstration component.* (10 points) The Secretary reviews each application to determine the quality of the applicant's plan to—

(1) Demonstrate effective practices in the delivery of Follow Through services; and

(2) Provide opportunities for observation of all aspects of the project.

(e) *Dissemination component.* (10 points) The Secretary reviews each application to determine the quality of the applicant's plan to disseminate information about its effective Follow Through practices to public and private school officials, including the extent to which the applicant will—

(1) Encourage adoption of those effective practices by other public and private schools;

(2) Provide training and technical assistance to persons interested in adopting the effective practices; and

(3) Follow the progress of the adopted practices.

(f) *Quality of key personnel.* (5 points) (1) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use in the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel; and

(iii) The time that each person referred to in paragraphs (f)(1)(i) and (ii) of this section will commit to the project.

(2) To determine personnel qualifications under paragraphs (f)(1)(i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(g) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project;

(2) Costs are reasonable in relation to the objectives of the project; and

(3) The applicant provides for the coordination of Follow Through services with existing local resources.

(h) *Evaluation.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan and any evaluation results to date, including—

(1) Methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable; and

(2) The extent to which an applicant's evaluation design meets the standards established in § 215.34.

(Authority: 42 U.S.C. 9861(a), (c), 9865(b))

§ 215.22 What selection criteria does the Secretary use for sponsored local Follow Through project applications?

(a) *Educational component.* (25 points) The Secretary reviews each application for a sponsored Follow Through project contained in a joint application to determine the capability of the applicant to implement a sponsor's approach, including information concerning the applicant's accomplishments to date, where appropriate. The Secretary also reviews each application for the percentage of low-income children who will participate in the project.

(b) *Parent participation component.* (20 points) The Secretary reviews each application to determine the quality of the applicant's plan to provide for active participation of Follow Through parents in the development, conduct, and overall direction of project activities.

(c) *Support services component.* (10 points) The Secretary reviews each application to determine the quality of

the support services the applicant will provide to Follow Through children.

(d) *Demonstration component.* (20 points) The Secretary reviews each application to determine the quality of the applicant's plan to—

(1) Demonstrate effective practices in the delivery of Follow Through services; and

(2) Provide opportunities for observation of all aspects of the project.

(e) *Quality of key personnel.* (5 points) (1) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use in the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel; and

(iii) The time that each person referred to in paragraphs (e)(1)(i) and (ii) of this section will commit to the project.

(2) To determine personnel qualifications under paragraphs (e)(1)(i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(f) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project;

(2) Costs are reasonable in relation to the objectives of the project; and

(3) The applicant provides for the coordination of Follow Through services with existing local resources.

(g) *Evaluation.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan and any evaluation results to date, including—

(1) Methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable; and

(2) The extent to which an applicant's evaluation design meets the standards established in § 215.34.

(Authority: 42 U.S.C. 9861(a), (c), 9865(b))

§ 215.23 What selection criteria does the Secretary use for Follow Through sponsor applications?

(a) *Education approach.* (25 points) The Secretary reviews the application for a Follow Through sponsor grant contained in each joint application to determine the effectiveness of the innovative educational approach the applicant has developed to improve the school performance of low-income children in kindergarten and primary grades.

(b) *Implementation assistance.* (20 points) The Secretary reviews each application to determine the quality of the applicant's plan to assist the local projects with which it is affiliated in implementating the applicant's approach, including—

(1) Providing orientation and training to Follow Through staff, parents, and other appropriate personnel;

(2) Recommending or making available necessary materials;

(3) Identifying available public and private resources that can contribute to the development of a comprehensive project;

(4) Monitoring implementation; and

(5) Providing additional technical assistance, as appropriate.

(c) *Demonstration and dissemination.* (20 points) The Secretary reviews each application to determine the quality of the applicant's plan to demonstrate and disseminate information about effective Follow Through practices to public and private school officials, including the extent to which the applicant will—

(1) Assist local projects with which it is affiliated in demonstrating effective practices;

(2) Encourage adoption of those effective practices by other public and private schools;

(3) Provide training and technical assistance to persons interested in adopting the effective practices; and

(4) Follow the progress of the adopted practices.

(d) *Quality of key personnel.* (5 points) (1) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use in the project, including—

(i) The qualifications of project director;

(ii) The qualifications of each of the other key personnel; and

(iii) The time that each person referred to in paragraphs (d)(1) (i) and (ii) of this section will commit to the project.

(2) To determine personnel qualifications under paragraphs (d)(1) (i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(e) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation.* (25 points) The Secretary reviews each application to determine the quality of the evaluation plan and any evaluation results to date, including—

(1) Methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable; and

(2) The extent to which an applicant's evaluation design meets the standards established in § 215.34.

(Authority: 42 U.S.C. 9863(a), 9865(b), 9866)

§ 215.24 What other factors does the Secretary consider in awarding a Follow Through grant?

(a) The Secretary prepares separate rank orderings of the self-sponsored local project applications and the joint local project-sponsor applications.

(b) From the funds appropriated for Follow Through, the Secretary determines the amount of funds available for self-sponsored local project applications and the amount available for joint local project-sponsor applications.

(c) The Secretary awards a grant to a local project—both self-sponsored and sponsored—only if the applicant—

(1) Obtains a rating of at least 70 points; and

(2) Meets the requirements in § 215.4(a).

(d) Under a joint local project-sponsor application, the Secretary—

(1) Awards a grant to a sponsor only if a grant will be made to at least one local project that will implement the sponsor's approach; and

(2) Does not award a grant to any local project included in the joint application, even if the local project applicant scores 70 points or more, if the joint application does not rank sufficiently high to receive funding.

(Authority: 42 U.S.C. 9861, 9863, 9866)

§§ 215.25–215.29 [Reserved]

Subpart D—What Conditions Must be Met by a Grantee?

§ 215.30 What program requirements must a local project grantee meet?

In addition to implementing the components listed in § 215.4(a), a local Follow Through project grantee shall meet the following program requirements:

(a) *Project director.* A local project grantee shall appoint a full- or part-time director to be responsible for overall program management.

(b) *Employment of personnel.* In the hiring of personnel, a local project grantee shall, to the maximum extent feasible, give preference to the following:

(1) Low-income Follow Through parents.

(2) Other residents of the area served by the project.

(Authority: 42 U.S.C. 9861 (a), (c), 9867(a))

§ 215.31 What program requirements must a sponsor meet?

A Follow Through sponsor shall meet the following program requirements:

(a) *Responsibilities.* A sponsor shall perform, at a minimum, the activities listed in § 215.5.

(b) *Project director.* A sponsor shall appoint a full- or part-time director to be responsible for overall program management.

(Authority: 42 U.S.C. 9863(a), 9866)

§ 215.32 What fiscal requirements must a local project grantee meet?

(a) *Prohibition against supplanting.* (1) A local project grantee shall use Follow Through funds for services that are in addition to, and not in substitution for, services previously provided without Federal assistance.

(2) To meet the requirement in paragraph (a)(1) of this section, a local project grantee shall contribute for the education of the children participating in the Follow Through project, at a minimum, the level of funds that would, in the absence of Follow Through funds, be made available from non-Federal sources for the education of those children.

(b) *Federal share.* (1) Unless a local project meets the criteria in paragraph (b)(2) of this section, a local project grantee may not use Follow Through funds to pay for more than 80 percent of the total approved costs of Follow Through services and activities.

(2) The Secretary may approve the use of Follow Through funds to pay for more than 80 percent of the total approved costs of the project if the Secretary determines that—

(i) The local grantee has made a reasonable effort to meet its non-Federal share requirement; and

(ii)(A) The project serves an area in which the per capita personal income is equal to or less than one-half of the current poverty income guideline, for a family unit of four members, published by the Department of Health and Human Services in the **Federal Register**.

(B) The project serves an area that has been involved in a major disaster; or

(C) The project serves an area that has been affected by unusual circumstances that have significantly reduced the financial or human resources that would otherwise be available as non-Federal share.

(Authority: 42 U.S.C. 9862 (b), (c))

§ 215.33 What are the requirements for participation of private school children?

(a) A local Follow Through project grantee shall provide for participation of eligible students enrolled in private nonprofit elementary schools.

(b) If an LEA is unable or unwilling to include in its local project eligible children enrolled in private nonprofit elementary schools, the Secretary may provide financial assistance to any other public or appropriate private nonprofit agency for the purpose of serving those children.

(Authority: 42 U.S.C. 9861 (a), (b))

§ 215.34 What evaluation requirements apply to a grantee?

A grantee's evaluation must comply with the following requirements:

(a) A grantee's evaluation design must include objective measures of the educational progress of project participants when measured against an appropriate nonproject comparison group. These measures should include performance on standardized testing instruments, grade retention, truancy, or referral to or placement in special education.

(b) A grantee's evaluation design must meet the following technical standards:

(1) *Representativeness of evaluation findings.* The evaluation results must be computed so that the conclusions apply to the persons, schools, or agencies served by the projects.

(2) *Reliability and validity of evaluation instruments and procedures.* The evaluation procedures must minimize error by providing for proper administration of the evaluation instruments, at twelve-month testing intervals, accurate scoring and transcription of results, and the use of analysis and reporting procedures that are appropriate for the data obtained from the evaluation.

(Authority: 42 U.S.C. 9865(b))

§§ 215.35–215.39 [Reserved]

Subpart E—What Compliance Procedures May the Secretary Use?

§ 215.40 What procedure does the Secretary use before terminating a grant?

The Secretary does not terminate Follow Through funds for a grantee's failure to comply with applicable terms and conditions unless the Secretary has afforded the grantee reasonable notice and an opportunity for a hearing under 34 CFR Part 78 (Education Appeal Board).

(Authority: 42 U.S.C. 9867(b))

§§ 215.41–215.49 [Reserved]

[FR Doc. 87–9788 Filed 4–29–87; 8:45 am]

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Part VII

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources Polymeric Coating of Supporting Substrates; Proposed Rule and Notice of Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3162-9]

Standards of Performance for New Stationary Sources Polymeric Coating of Supporting Substrates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed facilities that perform polymeric coating of supporting substrates. The proposed standards implement section 111 of the Clean Air Act and are based on the Administrator's determination that emissions from industrial surface coating of fabric cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed polymeric coating lines to control emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

A public hearing will be held, if requested, to provide interested parties an opportunity for oral presentations of data or views concerning the proposed standards.

DATES:

Comments

Comments must be received on or before July 14, 1987.

Public Hearing

If anyone contacts EPA requesting to speak at a public hearing by May 21, 1987, a public hearing will be held on June 15, 1987 beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Ann Eleanor at (919) 541–5578 to ascertain if a hearing will be held.

Request To Speak at Hearing

Persons wishing to present oral testimony must contact EPA by May 21, 1987.

ADDRESSES:

Comments

Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE–131), Attention Docket Number A–83–42, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Public Hearing

If anyone contacts EPA requesting a public hearing, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Ann Eleanor, Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578.

Background Information Document

The background information document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to the "Polymeric Coating of Supporting Substrates—Background Information for Proposed Standards," (EPA–450/3–85–022a).

Docket

Docket No. A–83–42, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell or Ms. Laura Butler, (919) 541–5624, Standards Development Branch, concerning regulatory decisions and the proposed standards, or Mr. James C. Berry, (919) 541–5605, Chemicals and Petroleum Branch, concerning technical aspects of the polymeric coating plants and control technologies. The address for both parties is Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. New Source Performance Standards—General

New source performance standards (NSPS or "standards") implement section 111 of the Clean Air Act. The NSPS are issued for categories of sources that cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare. They apply to new stationary sources of emissions, i.e., sources whose construction, reconstruction, or modification begins after a standard for them is proposed.

An NSPS requires these sources to control emissions to the level achievable by "best demonstrated technology," or "BDT," which is defined in item B.3 below.

B. NSPS Decision Scheme

An NSPS is the product of a series of decisions related to certain key elements for the source category being considered for regulation. The elements identified in this "decision scheme" are generally the following:

1. Source category to be regulated—usually an entire industry but can be a process or group of processes within an industry.

2. Pollutant(s) to be regulated—the particular substance(s) emitted by the source that the standard will control.

3. Best demonstrated technology—the technology on which the Agency will base the standards, i.e.,

> . . . application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. [section 111(a)(1)].

4. Affected facility—the pieces or groups of equipment that comprise the sources to which the standards will apply.

5. Emission points to be regulated—within the affected facility, the specific physical location emitting pollutants (e.g., vents, stacks, and equipment leaks).

6. Format for the standards—the form in which the standards are expressed, i.e., as a percent reduction in emissions, as pollutant concentrations, or as equipment standards.

7. Actual standards—based on what BDT can achieve, the maximum permissible emissions, or design, equipment, work practice, or operational requirements if emission limits are infeasible.

8. Other possible considerations—in addition, NSPS usually include: modification/reconstruction considerations, monitoring requirements, performance test methods, and reporting and recordkeeping requirements.

C. Overview of This Preamble

This preamble will:

1. Summarize the important features of this NSPS by discussing the

conclusions reached with respect to each of the elements in the decision scheme.

2. Describe the environmental, energy, and economic impacts of this NSPS.

3. Present a rationale for each of the decisions in the decision scheme.

4. Discuss administrative requirements relevant to this action.

II. Summary of the NSPS

A. Source Category To Be Regulated

The source category to be regulated is the polymeric coating of supporting substrates. "Polymeric coating of supporting substrates" is defined as a web coating process other than paper coating that applies an elastomer or other polymeric material onto a supporting substrate. Typical substrates include: Woven, knit, and nonwoven textiles; fiberglass; leather; yarn; and cord. Examples of polymeric coating are natural and synthetic rubber, urethane, polyvinyl chloride, acrylic, epoxy, silicone, phenolic, and nitrocellulose.

Paper coating operations are excluded because they are part of the industrial surface coating source category for paper, which is listed fourth on the EPA priority list.

B. Pollutant To Be Regulated

The pollutant to be regulated is VOC emissions from polymeric coating plants.

C. Best Demonstrated Technology

The BDT for coating mix preparation equipment is the installation and use of vapor-tight covers equipped with conservation vents on each piece of onsite coating mix preparation equipment that contains VOC for coating lines with solvent utilization of at least 110 m^3/yr but less than 150 m^3/yr. The installation, operation, and maintenance of covers and ductwork on each piece of equipment and ventilation of all emissions to a control device that is at least 95 percent efficient is BDT for coating lines using at least 150 m^3/yr of solvent.

The BDT for the coating operation is a total enclosure to capture the emissions from the coating application/flashoff area and a control device that is at least 95 percent efficient to control the enclosure and drying oven VOC emissions.

D. Affected Facility

The affected facility is each new, modified, or reconstructed coating operation and the associated equipment used to prepare or mix the coating for the coating operation. The coating operation consists of the application/flashoff area and a drying oven. Only onsite (i.e., at the same plant site as the coating operation) coating mix preparation equipment would be part of the affected facility.

E. Emission Sources To Be Regulated

The emission sources to be regulated are the coating mix preparation equipment, application/flashoff area, and drying oven. These emission sources will be referred to collectively as the coating line.

F. Format for the Standards

Equipment standards are proposed for the capture of emissions from coating mix preparation equipment. A performance standard based on a percent reduction format was selected for the control device serving the coating mix preparation area and for the control of emissions from the coating operation.

G. Actual Standards

The proposed standard would require the installation of covers on onsite coating mix preparation equipment and ductwork to vent all emissions to a control device that is at least 95 percent efficient on all coating lines with a solvent utilization of at least 150 m^3/yr. Coating lines with a solvent utilization of at least 110 m^3/yr but less than 150 m^3/yr shall install and use vapor-tight covers equipped with conservation vents on each piece of coating mix preparation equipment rather than controlling emissions with a 95 percent efficient control device. Each cover must be in place at all times except during addition and withdrawal of ingredients or visual inspection. The covers shall be equipped with conservation vents set at 17.2 kilopascals (kPa). Those lines that use less than 110 m^3 of solvent per year would require no control of coating mix preparation equipment. Equivalent means of emission limitation may be approved on a case-by-case basis by the Administrator if, after notice and an opportunity for hearing, the means of emission limitation is demonstrated to be equivalent in reducing emissions to the level required by the proposed standards.

The proposed standard for the coating operation would require at least a 93 percent reduction of VOC emissions from the coating operation. Once a line becomes subject to the standard (solvent consumption exceeds 110 m^3/yr), control would be required even if solvent use is less than 110 m^3/yr at some future time. An alternative means of demonstrating compliance with the standard (other than a performance test demonstrating 93 percent control) would be the installation of a total enclosure on the application/flashoff area and the venting of the enclosure and oven emissions to a 95 percent efficient control device.

H. Modification and Reconstruction

No changes to coating lines are expected that would cause an existing line to become subject to the modification provisions of the General Provisions. A possible reconstruction of a coating line that might occur is replacement of the coating applicator or the oven. In this case, existing coating mix preparation equipment that serves a new coating operation would become subject to the standards. The addition of a new piece of coating mix preparation equipment to an existing coating operation could constitute a modification such that the existing coating operation with associated coating mix preparation becomes subject to the standards. However, this is not expected to occur because the addition would not exceed the capital expenditure limitation specified in the General Provisions.

I. Compliance Testing

For coating mix preparation equipment, compliance would be determined from (1) evaluation of the ventilation system design and inspection to verify that all emissions from each piece of equipment are delivered to a 95 percent efficient control device and calculation of control device efficiency using results of tests performed according to Reference Methods 1 through 4 and 25A or (2) demonstration upon inspection that covers have been installed and are being used properly.

For the coating operation, the demonstration of compliance with the proposed standard varies with the type of control system in use. If a solvent recovery system controls only a single coating operation, the compliance tests require a determination of VOC contained in the coatings applied at the coating applicator and of the VOC recovered by the control device over each 1-month period.

In all other cases, the compliance tests require the use of Reference Methods 1 through 4 and 25A to measure all the gaseous emissions including fugitive emissions from the affected coating operation and all emissions entering and exiting the control device. These data would be used to calculate the capture efficiency of the system and the efficiency of the control device. The product of these two values would yield the overall efficiency of the control system.

If a liquid material balance is used to demonstrate compliance, the owner or operator would have the option of accounting for the solvent retained on the product. Any credit for retained solvent would be subject to verification and approval by the Administrator on a case-by-case basis. The Administrator invites comments concerning this issue. Any comments should contain specific information and data regarding any suggested alternative course of action.

An alternative method of demonstrating compliance for the coating operation would be the installation, use, and maintenance of a total enclosure around the application/flashoff area ducted to a 95 percent efficient control device. Compliance would include inspection of the capture and ventilation system to determine that all emissions are being vented to the control device and determination of control efficiency by use of Reference Methods 1 through 4 and 25A to measure gaseous emissions entering and existing the control device.

J. Monitoring, Recordkeeping, and Reporting Requirements

Monitored parameter data consist of information on control device parameters (e.g., outlet VOC concentration) used by EPA to indicate how well the control device is being operated and maintained and to target inspections. In contrast to compliance test data, monitored parameter data are not used directly to determine compliance with NSPS but rather are used as an indicator of whether acceptable operating and maintenance procedures are being used (see § 60.11(d) in the General Provisions of 40 CFR Part 60). Under NSPS, reporting frequencies of data other than direct compliance information are reviewed on a case-by-case basis and semiannual reporting of these data is required unless evidence supporting more frequent reporting is produced. For this NSPS, a semiannual reporting period is required for all monitored parameter data.

1. *Size Cutoff.* If the owner or operator of a plant claims that an affected coating operation with associated coating mix preparation equipment is below the size cutoff and, thus, would not be subject to the control requirements, a copy of a material flow chart indicating projected solvent use would be submitted with the notification reports (see § 60.747(b) of the regulation). For these affected facilities, the actual solvent use records would be examined at the end of the initial year for verification of this projected solvent use (see § 60.747(b) of the regulation). If the initial annual solvent use is less than 110 m^3, semiannual estimates of projected solvent use would be made in subsequent years, and actual solvent use records would be kept (see § 60.744(a) of the regulation). When a projection or the actual solvent use exceeds 110 m^3/yr, a report would be submitted to EPA (see § 60.747(c) of the regulation).

2. *Coating Mix Preparation Equipment.* If the owner or operator of a plant claims that the coating mix preparation equipment is associated with a coating operation that utilizes at least 110 m^3/yr but less than 150 m^3/yr of solvent, the owner or operator shall maintain solvent use records and make semiannual estimates of projected solvent use as described for the size cutoff above. Otherwise, there are no periodic monitoring, recordkeeping, or reporting requirements for coating mix preparation equipment.

3. *Coating Operations.* Coating lines with a carbon adsorber for VOC emission control and not demonstrating compliance by a liquid material balance would continuously measure and record the VOC concentration either in the exhaust gas or in both the inlet and outlet gas streams. Coating lines with incinerators for VOC emission control would monitor combustion gas temperature. Coating lines with a condensation system would continuously measure and record the condenser's exhaust gas temperature. When a total enclosure is used around the application/flashoff area of an affected coating operation, the monitoring requirement would be the continuous measurement and recording of the fan amperage, air flow rate, or absolute pressure within the total enclosure. When the equipment alternative is selected as the compliance technique, the monitoring requirements would be the continuous measurement and recording of total enclosure and control device operating parameters as describe above in this paragraph (see § 60.744 (b) through (g) of the regulation).

Deviations in the control device monitoring parameters beyond the limits specified in the proposed standard would serve as indicators to the Administrator and to the owner or operator that the coating operation control system may not be operating at the conditions tested during the performance test. Records of deviations beyond these specified limits would be reported to the Administrator every 6 months (see § 60.717(d) of the regulation). Owners or operators are required to maintain for 2 years the records of control device operating parameters that must be monitored, as specified in 40 CFR 60.7(d).

III. Impacts of This NSPS

At present, at least 128 polymeric coating plants are known to exist. A total of nine model facilities were developed to represent one to three production sizes (based on annual solvent usage) for each of four broad categories covering a range of coating and product types, application methods, and drying operation parameters. Although the range of model plants is considered a reasonable representation of the industry as a whole, no single "typical facility" exists that can be used as the basis for analyzing the impacts of the proposed standards. Therefore, single line impacts are presented as a range from the smallest to the largest model plant. An estimated 18 affected facilities representing two of each model plant will be built in the 5 years after the NSPS would become applicable. The fifth-year impacts of this NSPS are based on this projection. It should be noted, however, that a total of 26 lines are expected to be constructed by 1990. Of these lines, 18 are expected to be using solvent-borne coatings and would be affected by all of the provisions of the NSPS. The remaining eight lines are expected to use low-solvent coatings such that they fall below the annual solvent consumption cutoff. These lines would only be subject to recordkeeping and reporting requirements, and their fifth-year impact is considered negligible.

The environmental, energy, and economic impacts of this NSPS are expressed as incremental differences between the impacts for facilities complying with the proposed standards and for those facilities if no NSPS were promulgated. In the absence of an NSPS, facilities would comply with the applicable State implementation plan (SIP) for VOC emissions (see complete discussion under section entitled "Regulatory Alternatives"). There are no SIP's regulating coating mix preparation equipment emissions. The baseline SIP control of a coating operation is equivalent to about 81 percent control. It is expected that States would impose this level of control for any new lines built in a nonattainment area. In attainment areas, however, the level of control would depend on the particular plant and State agency involved. Thus, to the extent that State requirements in attainment areas differ from the requirements of a typical SIP, the actual impacts may differ from the impacts presented in the following discussion.

The environmental and cost impacts of the proposed standards are summarized in Table 1. All of the impacts are calculated assuming that fixed-bed carbon adsorbers will be installed on all new lines. Fixed-bed carbon adsorbers rather than incinerators or condensers were used as the basis for the impact analyses because fixed-bed carbon adsorbers are both commonly used and provide cost-effective control. This analysis also results in the highest impact estimates for wastewater and solid waste.

TABLE 1.—ANNUAL IMPACTS OF THE PROPOSED NSPS ON MODEL COATING LINES[1]

	NSPS			Baseline total	Impact over baseline	Fifth-year impact over baseline for 18 new lines
	Coating mix preparation equipment	Coating operation	Total			
VOC emissions, Mg	[2] 0.8–5.7	6.0–21.6	6.8–27.3	25.9–308.6	[3](19–281)	(1,280)
Wastewater, m^3	59–117	326–1,170	385–1,287	278–999	107–288	5,350
Solid waste, kg	5–28	40–284	45–312	36–80	9–232	1,070
Energy, TJ	0.2–0.3	1.0–4.1	1.2–4.4	0.8–4.2	0.4–0.2	15
Annualized cost, 10^3 (dollars)	(1.0)–2.7	(104.4)–102.3	(105.4)–105	(73.6)–66.3	(31.8)–38.7	340
Capital cost, 10^3 (dollars)	1.9–43.0	283.6–710.6	285.5–753.6	260.9–488.1	24.6–265.5	[4] 3,090

[1] A coating line applying urethane coatings (pre-mixed coatings) does not use coating mix preparation equipment. Therefore, its impacts will be lower than those mentioned in this table.
[2] Impacts vary depending on the size of model coating facilities and, therefore, are presented as ranges.
[3] Parentheses indicate a net credit.
[4] Capital cost impacts are 5-year cumulative.

A. Air

A new polymeric model coating line would emit 26 to 308 megagrams (Mg) of VOC per year under the SIP's. Controlled to the level of the proposed standards, the total annual VOC emissions from the line would be 7 to 27 Mg. This represents a decrease of 19 to 281 Mg of VOC emissions per year from the levels emitted by an identical line controlled to the typical SIP level. In the fifth year after this NSPS becomes applicable, the proposed standards would reduce the nationwide VOC emissions from new, modified, or reconstructed polymeric coating lines by 1,280 Mg beyond the emission level required by typical SIP's.

B. Water

Use of a fixed-bed carbon adsorber to comply with the standards would result in a total annual wastewater discharge from a new polymeric coating line of 385 to 1,287 m^3. This represents an increase of about 23 to 30 percent, or 107 to 288 m^3 over the total annual discharge expected from a new coating line controlled to the level of typical SIP's. Even at the maximum level of increased discharge, wastewater discharge only increases by 10 gallons per hour. Typical wastewaters from polymeric coating plants are treated by municipal sewer systems. As a result of the proposed standards, the nationwide wastewater discharges in 1990 would increase by 5,300 m^3 above the discharge levels that would result from the SIP's.

C. Solid Waste

Under the proposed standards, a typical line using either rubber or urethane coatings would generate at most 112 kilograms (kg) per year of solid waste (spent carbon), an increase of 34 percent or 38 kg per year over the total annual solid waste generated at similar facilities controlled to the typical SIP level. The incremental solid waste increase for these lines controlled to the level of the standard would be minimal. However, a solid waste increase of 312 kg per year over baseline would occur for a line coating fiberglass with epoxy because no control system for this line is required at baseline. As a result of the proposed standards, the nationwide incremental solid waste increase (including the epoxy coating line) in 1990 would be 1,070 kg greater than that associated with typical SIP control.

D. Energy

A new coating line would have an energy consumption associated with the proposed NSPS of 1.2 to 4.4 terajoules (TJ). As explained above, the upper end of the range represents a plant that was uncontrolled at baseline. In the fifth year after this NSPS would become applicable, nationwide energy consumption from plants performing polymeric coating of supporting substrates would increase by 15 TJ compared with energy consumption determined from the current regulatory baseline.

E. Control Costs

Annualized control costs include the utility requirements and capital recovery value of the control device, the labor required for operating the device, any raw material costs (e.g., carbon for an absorber), and the value of the recovered solvent. Annualized control costs for a new coating line equipped to meet the SIP level of control would range from a net credit to $66,000. The total annualized control costs for an identical coating line controlled to the level of the proposed standards would range from a net credit to $105,000. The annualized cost of the coating line itself (utilities, raw materials, building and land costs for the line alone, excluding any control costs) would be $0.9 to $11.3 million. The control system annualized costs would represent less than 1 percent of the total annualized cost for the controlled coating line.

The capital cost for control equipment to meet the recommended standards of performance at a new line would be $286,000 to $754,000 compared with $261,000 to $488,000 necessary to meet the SIP level of control. The capital cost of a new coating line without control equipment would be $0.7 to $1.2 million.

In the fifth year of implementation, the nationwide annualized cost of control of coating lines covered by the standards would amount to $340,000 over the regulatory baseline. The cumulative capital costs for control under the proposed standards would be $3.1 million over the regulatory baseline.

F. Economic Effects

By the end of the fifth year after the standards are proposed, there would be the same number of new coating lines as there would be if the controls had

remained at the SIP level. No significant retail price change attributable to the proposed standards is expected because there would be no significant increase in annualized cost. No adverse impacts on capital availability, competition, employment, productivity, or small businesses are expected as a result of the proposed standards.

IV. Rationale for Proposed Standards

A. Selection of Source Category

1. *Threat to Public Health and Welfare Posed by Polymeric Coating Plants.* The priority list, authorized by section 111(b)(1)(A) and section 111(f) of the Clean Air Act, ranks source categories on a nationwide basis in terms of quantities of air pollutant emissions from the source category, the mobility and competitive nature of each source category, and the extent to which each pollutant endangers public health and welfare. Polymeric coating of supporting substrates is part of the general category of industrial surface coating of fabrics, which is ranked 10th on the list 59 major source categories to be considered for NSPS development (40 CFR 60.16, 44 FR 49222, August 21, 1979). Polymeric coating plants generally fall into one of six four-digit SIC industry categories: SIC 2295 (Coated Fabrics, Not Rubberized), SIC 2296 (Tire Cord and Fabric), SIC 2394 (Canvas and Related Products), SIC 3041 (Rubber and Plastic Hose and Belting), SIC 3069 (Fabricated Rubber Products, Not Elsewhere Classified), and SIC 3293 (Gaskets, Packing, and Sealing Devices). Polymeric coating of supporting substrates includes the coating of woven, knit, and nonwoven textiles; fiberglass; leather; yarn; and cord. All of these operations coat a flexible web in a continuous process with a common coating line configuration of unwind, coating application, flashoff area, drying or curing oven, and rewind.

Based on model plant line sizes, production hours, and coating formulations, coating lines use 95 to 308 Mg per year of solvent depending on the type of coated end product desired. Estimated annual VOC emissions at baseline range from 26 to 90 Mg per coating line. Based on these data, current nationwide emissions are about 6,100 Mg per year.

2. *Exclusions.* Polymeric coating of supporting substrates excludes web coating operations that print an image on the surface of the substrate, such as publication rotogravure and flexible vinyl coating and printing, because these operations are covered by separate standards. Any coating applied on the same printing press that applies the image would also be excluded. Paper coating operations are excluded because they are part of the industrial surface coating source category for paper, which is listed fourth on the EPA priority list.

B. Selection of Emission Sources

1. The emission sources to be regulated in a polymeric coating plant are coating mix preparation equipment and the coating operation (coating application/flashoff area and drying oven). The coating operation is the largest source of VOC emissions, but emissions from all of these sources can be controlled at a reasonable cost. There are fugitive emissions from the cleaning of equipment, but there is no available technology to control these emissions.

2. There are emissions from solvent storage tanks, but for the purposes of NSPS development, EPA has identified no cost-effective means of controlling them. The BID contains an analysis of control options for emissions from solvent storage tanks less than 75 m^3 in capacity located at polymeric coating plants. Tanks larger than 75 m^3 would be covered under the proposed NSPS for volatile organic liquid storage vessels, and, thus, were excluded from consideration. Information that became available to the Agency after the BID was developed indicates that none of the control technologies discussed in the BID is cost effective for storage tanks less than 75 m^3 in capacity. Therefore, storage tanks less than 75 m^3 in capacity that are located at polymeric coating plants are excluded from the polymeric coating standards for the reasons presented below.

The analysis presented in the BID on the costs of control of storage tanks is similar to that developed for the proposed solvent storage tank standard for the magnetic tape manufacturing industry (January 22, 1986, 51 FR 2996). The proposed standard for tanks at magnetic tape manufacturing plants requires pressure relief valves set at 103 kilopascals (kPa). The use of pressure relief valves requires the use of American Society of Mechanical Engineers (ASME) pressure vessels that are designed to withstand this internal pressure. Commenters on the magnetic tapes standard stated that the Agency improperly selected the bseline (i.e., the type of tank currently in use) for comparison to the various control options and failed to include the cost of necessary ancillary equipment. According to the commenters, these factors would increase the cost difference between baseline and the proposed standard.

The commenters stated that instead of the vertical, atmospheric tank designed to meet American Petroleum Institute (API) standard 12F proposed as baseline in the BID, the baseline should be an atmospheric tank designed to meet Underwriters Laboratories (UL) specification No. 142 or No. 58. The commenters stated that if an API 12F tank were installed at a manufacturing facility, the facility would not be in compliance with Occupational Safety and Health Administration (OSHA) regulations (29 CFR 1910.106). The commenters also contended that there was a significant cost differential between tanks built to the UL specifications and pressure vessels built to ASME specification.

Additionally, the commenters stated that EPA's cost analysis was deficient in the following ways:

1. Emergency venting requirements that would necessitate a 15.2-cm diameter pressure relief valve to comply with OSHA regulation 29 CFR 1910.106 were not considered. A less costly 5-cm diameter valve was assumed instead;

2. More complex and expensive equipment to measure liquid levels would be necessary in pressure vessels; and

3. The cost estimate for pressure vessels should have included the cost of additional land area to comply with fire codes.

After evaluating these comments, the Agency has determined that commenters are correct in noting the conflict between the baseline case and OSHA requirements and in asserting that a 37-m^3 pressure vessel would require a 15.2-cm pressure relief valve to comply with OSHA regulations, additional costs for liquid level measuring gauges would be incurred, and additional land area could be required. On this basis, the cost analysis presented in the BID was reevaluated. This analysis is contained in Docket No. A–83–42, Item II–B–53.

During this reevaluation, EPA attempted to ascertain the baseline tank. However, representatives of plants that EPA contacted were unable to cite the design specifications of their tanks. There are two general types of tank specifications that are technically feasible for baseline, atmospheric tanks designed to: (1) UL specification No. 142 or No. 58 and (2) API specification 650. The Agency assumed that the baseline tank type would be the design that met all applicable codes and regulations for the least cost. In recent price quotations received from vendors and commenters, the price of a 37-m^3 atmospheric tank designed to UL specifications ranged

from $4,400 to $5,200 while the price of the same size tank designed to the API specification 650 was $11,300. Considering the lower cost for UL tanks, the Agency is aware of no fact that would cause current typical industry practice to be anything other than the construction of tanks built to UL specifications. Therefore, for the purpose of this reevaluation, it was assumed that the baseline tank would be constructed to UL specifications.

The cost estimates received for a 37-m^3 pressure vessel equipped with pressure relief valves set at 103 kPa designed to ASME codes ranged from $13,700 to $16,000. The capital cost differential between a UL tank and a pressure vessel is at least $8,500. This cost would raise the cost effectiveness of controlling emissions with pressure relief valves set at 103 kPa from a net credit to about $14,000/Mg. This is judged to be unreasonable for this industry.

Because of the uncertainty over which atmospheric tank is the correct baseline, EPA also examined whether installation of a pressure vessel is cost effective when compared to an API 650 tank as baseline. The capital cost differential in this case is at least $2,400. This cost would raise the cost effectiveness of controlling emissions with pressure relief valves to about $3,700/Mg. This also is judged to be unreasonable. Because cost effectiveness is unreasonable for all cases when tank costs alone are considered, it is clear that inclusion of costs for additional land area or ancillary equipment would only make the control option less cost effective.

The other options discussed in the BID for the control of emissions from storage tanks (conservation vents set at 17.2 kPa and venting to a carbon adsorber) also have unreasonable cost-effectiveness values and were not selected as BDT. Therefore, no standard is proposed for the control of VOC's from solvent storage tanks because no control technology was found to be cost effective for the size of vessels (<75 m^3) in use at polymeric coating plants.

C. Pollutants To Be Regulated

The air pollutant to be regulated by these standards is VOC. The primary air pollutant from polymeric coating plants is VOC, which is a precursor to the formation of ozone and oxygenated organic aerosols; health and welfare risks from these include impaired respiratory function, eye irritation, deterioration of materials such as rubber, and necrosis of plant tissue.

Heat for the drying ovens at polymeric coating plants is supplied with electricity or indirect heat sources. Electrical ovens do not result in any additional pollutants. Indirect-heated ovens are usually steam-tube heaters with an onsite steam boiler. Therefore, indirect-heated ovens are potential sources of pollutants other than VOC (e.g., nitrogen oxide, sulfur dioxide, and particulate matter). Control of boiler emissions is being examined by EPA in a separate study of industrial boilers.

Possible sources of VOC emissions are the production process, solvent storage tanks, and the cleaning of equipment. Storage tanks emit VOC as they are filled and emptied (working losses) and due to normal diurnal temperature changes (breathing losses). However, there are no cost-effective means of controlling emissions from the small tanks (less than 75 m^3 in capacity) typically found at polymeric coating plants. Solvent used in cleaning is approximately 3 percent of total solvent use. Most solvent used in cleaning equipment stays in the liquid phase and is reused or disposed of in accordance with water quality regulations. Therefore, only VOC emissions from the manufacturing process are regulated by this standard.

D. Selection of Best Demonstrated Technology

Section 111 of the Clean Air Act requires that standards of performance reflect BDT, which is the technology that yields the greatest emission reduction without imposing unreasonable costs. See *Essex Chemical Corp. v. Ruckelshaus* 486 F.2d 472, 433 (D.C. Cir. 1973). This section describes the emission control technology applicable to plants that perform polymeric coating of supporting substrates and the regulatory alternatives considered by EPA in the development of these standards. Included are a summary of the environmental, energy, and economic impacts and a description of the basis of the proposed standards.

1. Applicable Control Technologies

a. *Coating Operation Capture Systems*—(1) *Application/flashoff area.* Total enclosures, which are the most effective means of capturing solvent emissions from the coating applicator and the flashoff area, are used in this industry. When such enclosures are used, all of the captured emissions are eventually directed to the control device. The captured gases are frequently used as makeup air to the ovens.

A total enclosure should achieve nearly 100 percent containment of VOC emissions from the application/flashoff area. Two types of total enclosures are used at two existing facilities. The first type consists of the entire coater room. All room ventilation air is directed to a control device; thus, all potential fugitive emissions from the application/flashoff area enter the control device. A second type of total enclosure is a small room around the application/flashoff area but within the coater room. All ventilation air from the enclosure must be ducted to the control device.

Partial enclosures are anything less than total and, in the extreme, could even be represented by a hood located high over the web that captures part of the vapors released from the applicator and the flashoff area. The performance of such a hood can be improved by addition of strips of fabric or plastic that hang to floor level. Because many solvents are heavier than air, draft intakes at floor level can be used to increase capture efficiency. Data on capture efficiencies achieved by partial enclosures in other industrial webcoating applications indicate that at least 50 percent capture might be achieved by a hood that has no side walls.

The ability of all enclosures to contain the solvent fumes can be increased by increasing the capture velocity of the draft of capture devices and by reducing the cross drafts caused by the room ventilation air when doors or windows in the enclosure are opened.

The estimated cost of operating all enclosure includes the capital recovery costs of the enclosure and associated ductwork. The airflow rate necessary to keep worker exposure at safe levels depends on the operating parameters of the coating line and the proximity of the hoods or exhaust points to the source of the emissions (i.e., the distance from the coater and web). The airflow rate determines ductwork and fan sizes. There is little maintenance required for this equipment other than an occasional tightening or replacement of belts or replacing a fan motor.

(2) *Drying oven.* The drying ovens used in polymeric coating plants have openings in the ends to allow the web to enter and exit. The ovens are operated at slight negative pressure to avoid the escape of fugitive emissions from the oven, and, because of this, the ovens may capture some fugitive emissions from the application/flashoff area through the openings in the ends.

b. *Coating Operation Control Devices.* Carbon adsorbers, condensers, and incinerators are used to control VOC emissions at polymeric coating plants.

(1) *Adsorbers.* Nine fixed-bed and one fluidized-bed carbon adsorption systems are known to be operated at polymeric

coating plants. The VOC are adsorbed on the surface of activated carbon, desorbed from the carbon by steam (fixed-bed adsorbers) or hot nitrogen (fluidized-bed adsorbers), and then usually recovered as liquid solvents. Recovery and reuse of the solvents may require distillation of the condensate or caustic drying of the condensed VOC depending on the solvent blend used or on the miscibility in water of the solvents used. Test data from many industries, including some data from one polymeric coating plant, indicate that operational efficiency levels of 95 percent are consistently attainable with carbon adsorbers. As a result, the analysis of BDT is based on carbon adsorbers that are at least 95 percent efficient.

The size of the carbon adsorber is dependent on the airflow rate, type and concentration of solvent, and temperature and humidity of the solvent laden air (SLA). As the size of the adsorber increases, the capital recovery, steam, and electricity costs would increase. The life of the carbon bed and, thus, the frequency of carbon replacement vary with type of solvent and frequency of desorption.

(2) *Condensers.* Three condensation systems are known to be in use at polymeric coating plants. Condensers cool the VOC to the dew point of the solvent, which is then recovered as a liquid. There are two basic types of condensation systems. In the first, the drying oven is blanketed with an inert gas (e.g., nitrogen); two facilities are known to use this system. One facility is known to operate with the second type, an air atmosphere in the oven. Equipment vendors state that removal efficiencies of 99 percent are attainable with condensation systems. Because of the limited experience with these systems at polymeric coating plants, a more conservative control efficiency of 95 percent was assumed for this analysis to determine BDT.

The cost to operate a condenser depends on the size of the condenser and the utility requirements. The design and operation of a condenser depend on the physical properties of the solvent(s) (primarily vapor pressure), SLA flow rate, solvent concentration and temperature, and the temperature of the refrigeration coils, depending on the type of condenser. Operating and maintenance costs may be high to maintain a leak-proof oven and to prevent the air system from freezing up.

(3) *Incinerators.* Sixteen thermal and nine catalytic incinerators are known to be in use at polymeric coating plants for control of VOC emissions. It is well documented that properly designed and operated incinerators destroy more than 98 percent of the VOC introduced to the combustion chamber. This figure was used for the purposes of this analysis to determine BDT.

The cost of operating an incinerator depends on the size of the device and the fuel requirements. The size of the incinerator is determined by the airflow rate. The supplemental fuel requirement is determined by the heating value of the solvent and the concentration of the solvent in the SLA. Unlike costs for enclosures, adsorbers, and condensers, the control cost for incinerators does not include any value for the recovered solvent.

(4) *Flares.* Although not currently in use at polymeric coating plants, flares could be used to control VOC emissions from the coating operation and the mix equipment. The Btu content of these gas streams is so low that supplemental fuel would be needed to achieve a destruction efficiency of 98 percent.

c. *Control Systems for Coating Mix Preparation Equipment.* Emissions from coating mix preparation equipment can be reduced by covering the vessels. Coating mix preparation equipment at polymeric coating plants may be equipped with loose-fitting covers, such as metal lids or plastic film, or with tight-fitting covers. Conservation vents are installed for safety purposes on equipment with vapor-tight covers. Covers reduce emissions by at least 40 percent by preventing diffusion losses. At least six polymeric coating plants are known to use covered coating mix preparation equipment.

Coating mix preparation equipment with tight-fitting covers has also been vented to a control device in at least three polymeric coating plants and at seven facilities in a similar web-coating industry (magnetic tape production). Because these are sealed systems, 100 percent capture is expected; and an overall emissions control efficiency of 95 percent is attainable. Even when the covers are opened, dampers in the ductwork are also opened; and the draft created by the control device blower is sufficient to pull in all emissions. The analysis of BDT is based on venting sealed coating mix preparation equipment to a control device that is at least 95 percent efficient.

The cost of control of coating mix preparation equipment includes the capital recovery cost for the lid and vent or the ductwork (depending on the alternative) and the value of the solvent that is prevented from escaping or that is recovered. The equipment cost varies with the size of the tank and the airflow rate. For the carbon adsorption alternative, there would be a small increase in adsorber utility costs due to the additional VOC load.

d. *Low-Solvent Coatings.* The use of low-solvent coatings is an effective technique to reduce VOC emissions. Some combination of waterborne, higher solids, plastisol, and calendered or extruded coatings are used as the sole means of reducing VOC emissions at over 30 percent of the plants that apply polymeric coatings to supporting substrates. A combination of low-solvent coatings and control of the drying oven is used by at least 10 percent of the plants applying polymeric coatings to supporting substrates. The primary factor that limits the use of low-solvent coatings as an emission control technique is that low-solvent coatings are not available for many products. Therefore, it is anticipated that solvent-borne coatings will continue to be necessary in some coating applications.

Waterborne coatings allow the mixing of certain materials that would be incompatible in solvent-borne coatings. Although waterborne coatings dry more slowly than solvent-borne coatings, the longer drying time required is partially offset by the high solids content of waterborne coatings, which is typically 55 to 60 percent by volume.

The advantages of higher solids coatings compared to solvent-borne coatings include reduced solvent usage, reduced VOC emissions, reduced energy costs for the heat to dry the coating, and faster line speeds. Some manufacturers use ultraviolet or electron beam curing with higher solids coatings, which reduces energy costs and allows for a more physically compact coating operation. A disadvantage of higher solids coatings is short pot life; they must be applied shortly after preparation.

Coatings applied by calenders and extruders or in plastisol form give off virtually no VOC emissions. The only emissions are due to a small percentage of plasticizers that evolves when heat is applied during processing. An advantage of calenders and extruders is faster line speeds, but these processes are limited to application of fairly thick coatings. The use of plastisols is currently limited to polyvinyl chlorides and some urethanes.

Because low-solvent coatings reduce emissions effectively and may cost less than control devices, they are considered BDT in those situations where low-solvent coatings can be used to reduce annual solvent consumption below the 110 m^3 cutoff discussed in section H.

2. Regulatory Alternatives Considered. The EPA considered several

regulatory alternatives as the means of achieving control of emissions. Table 2 presents a summary of the regulatory alternatives, emission reductions, and costs that were considered for each VOC emission source.

TABLE 2.—BEST DEMONSTRATED TECHNOLOGY SELECTION FACTORS

Plant size, emission source	Regulatory alternative		Emission reduction, Mg/yr[2]	Cost effectiveness, dollars/Mg[3]	Incremental cost, dollars/Mg[4]
	No.[1]	Technology			
Small:					
Coating mix preparation equipment[5].	II	Covers with conservation vent	3.8	−270	−270
Coating mix preparation equipment.	III	Common carbon adsorber	9	540	1,100
Coating operation	II	Partial enclosure and oven to carbon adsorber.	7.7	100	100
Coating operation	III	Total enclosure and oven to carbon adsorber.	10.3	360	1,100
Coating operation	IV	Total enclosure and oven to incinerator.	12.9	2,800 ot 3,000[6]	12,700 to 13,700
Medium:					
Coating mix preparation equipment.	II	Covers with conservation vent	6.2	−410 to −310	−410 to −310
Coating mix preparation equipment.	III	Common carbon adsorber	14.6	180	540 to 610
Coating operation	II	Partial enclosure and oven to carbon adsorber.	12.5 to 124.9	−700 to 780	−700 to 780
Coating operation	III	Total enclosure and oven to carbon adsorber.	16.7 to 129.1	−670 to 750	−600 to 560
Coating operation	IV	Total enclosure and oven to incinerator.	20.8 to 133.2	820 to 5,000	3,100 to 27,900
Large:					
Coating mix preparation equipment.	II	Covers with conservation vent	12.3	−400 to −310	−400 to −310
Coating mix preparation equipment.	III	Common carbon adsorber	29.3	−4 to −2	220 to 290
Coating operation	II	Partial enclosure and oven to carbon adsorber.	25 to 249.7	−790 to 440	−790 to 440
Coating operation	III	Total enclosure and oven to carbon adsorber.	33.3 to 258.1	−830 to 400	−940 to 140
Coating operation	IV	Total enclosure and oven to incinerator.	41.6 to 266.4	480 to 4,900	3,100 to 27,700

[1] The regulatory alternative number increases with increasing level of control. For all emission sources, regulatory alternative I is baseline, and this is not listed in the table.
[2] Relative to baseline emissions (oven control for coating operation, uncontrolled for mix equipment).
[3] Average cost effectiveness equals (net annualized cost of control technique) minus (net annualized cost of baseline control technique) divided by (annual emission reduction of control technique) minus (annual emission reduction of baseline control technique), dollars per Mg.
[4] Incremental cost equals (net annualized cost of control technique) minus (net annualized cost of baseline control technique) divided by (annual emission reduction of control technique) minus (annual emission reduction of next-less-restrictive control technique), dollars per Mg.
[5] The underlined regulatory alternatives are those selected as BDT.
[6] Impacts vary depending on the size of model coating facilities and, therefore, are presented as ranges.

Estimates of the emission reductions and cost impacts were determined through the development of three sizes of model plants (small, medium, and large) based on solvent consumption in production of four product types (rubber-coated industrial fabric, urethane-coated fabric, rubber-coated cord, and epoxy-coated fiberglass) that represent new facilities. The annual solvent usage levels for the model plants are 95 Mg, 154 Mg, and 308 Mg, respectively.

a. *Coating Mix Preparation Equipment.* The number of vessels in a mix room that supplies coating to a single coating operation varies widely. The following regulatory alternatives were examined for control of the combined emissions from the entire group that supplies a single coating operation:

(1) Regulatory Alternative I (RA I) (baseline) assumes that no NSPS would be developed. Because there are no SIP regulations for emissions from coating mix preparation equipment, RA I represents the uncontrolled emission level.

(2) Regulatory Alternative II represents a 40 percent reduction in emissions from the coating mix preparation equipment. This can be achieved by installing covers with conservation vents on each piece of coating mix preparation equipment.

(3) Regulatory Alternative III represents a 95 percent reduction in emissions. This can be achieved by covering the coating mix preparation equipment and ducting the vapors to a 95 percent efficient control device that is common to the coating operation.

b. *Coating Operation.* (1) Regulatory Alternative I (baseline) assumes that no NSPS would be developed. This regulatory alternative reflects allowable VOC emissions under State regulations. The State regulations typically require a VOC emission limit of 0.35 kg/liter of coating, which is equivalent to an overall control efficiency of 81 percent from polymeric coating operations.

(2) Regulatory Alternative II (RA II) represents an emission reduction of 90 percent, which can be achieved by delivering 95 percent of the coating

operation emissions to a control device that is 95 percent efficient. This level of control may be achieved by delivering emissions captured by a partial enclosure on the application/flashoff area and those from the oven to a control device.

(3) Regulatory Alternative III represents an emission reduction of 93 percent, which can be achieved by delivering no less than 98 percent of the coating operation emissions to a control device that is 95 percent efficient. This would require complete enclosure of the application area to ensure that essentially all of its emissions are delivered to the control device. The oeven emissions would be controlled by the same device.

(4) Regulatory Alternative IV would achieve a 96 percent reduction in VOC emissions by the use of the same capture system described in the third control option and an incinerator that destroys 98 percent of the emissions.

3. Cost, Environmental, Energy, and Economic Impacts. These analyses for each alternative and each emission source are based on comparisons with the respective baselines, which are no VOC emission control for the coating mix preparation equipment and control of the drying oven emissions for the coating operations.

a. *Environmental Impacts.* An estimate was made of the nationwide impacts on VOC emissions, wastewater effluents, and solid waste generation for each regulatory alternative and each emission source. This analysis was based on a projected increase of 18 new solvent-borne coating lines of various levels of annual coating consumption by 1990. Each new coating operation would require new coating mix prepation equipment.

Under RA I, which presumes States would not regulate coating mix preparation equipment, new, modified, or reconstructed equipment would emit approximately 250 Mg per year of VOC in 1990. By covering the mix vessels and equipping them with conservation vents (RA II), emissions would decrease by 40 percent to 150 Mg per year in 1990. By venting the covered vessels to a carbon adsorber, emissions would decrease 95 percent from RA I to 13 Mg per year in 1990.

Under the baseline regulatory alternative (equivalent to about 81 percent control), coating operations at new, modified, or reconstructed coating lines would emit approximately 1,300 Mg per year of VOC in 1990. Installation of equipment to comply with RA II (delivery of emissions from a partial enclosure and oven to 95 percent efficient control device) would decrease emissions by 960 Mg or 75 percent from the baseline to 320 Mg per year in 1990. Implementation of RA III (delivery of essentially all emissions to a carbon adsorber) would decrease VOC emissions by 1,100 Mg or 83 percent from the baseline to 220 Mg per year in 1990. Regulatory Alternative IV (RA IV) (delivery of essentially all emissions to an incinerator) would reduce emissions 1,200 Mg or 90 percent from the baseline to 120 Mg annually in 1990.

Wastewater created by the stripper column in the distillation system that is recovering solvent from the regeneration steam of carbon adsorbers is usually discharged to local publicly-owned waste treatment systems without penalty or surcharge. The environmental impact on natural water systems from this discharge is expected to be small because: (1) The total annual volume is small and (2) it contains low levels of organics. The maximum nationwide wastewater discharge rates that would result from implementation of an NSPS on all new polymeric coating plants were estimated assuming that all emissions are directed to fixed-bed carbon adsorbers. The annual wastewater discharge in 1990 from coating operations would be 7.7 thousand m^3 under RA I, 11.6 thousand m^3 under RA II, and 12.2 thousand m^3 under RA III. Regulatory Alternatives II and III would increase the annual wastewater discharge by 3.9 thousand m^3, and 4.5 thousand m^3, respectively, over the baseline in 1990. There would be no wastewater discharge resulting from implementation of RA IV.

A National Pollutant Discharge Elimination System permit is required for polymeric coating wastewaters that are discharged directly to a receiving stream; wastewaters discharged to a publicly-owned treatment works (POTW) have to meet the requirements in 40 CFR Part 403, General Pretreatment Regulations, as well as other requirements established by the POTW.

The only solid waste generated by the emission control system is from the carbon adsorbers. The adsorption efficiency of the activated carbon gradually degrades over time until replacement of the carbon is necessary. Polymeric coating plants report carbon life of from 1 to 8 years. The usual procedure for handling waste carbon is to recycle it to the carbon manufacturer who will reactivate it. The following values for solid waste were estimated assuming that 75 percent of the carbon is recycled via reactivation. In 1990, new, modified, or reconstructed coating mix preparation equipment controlled to the level of RA III would generate 140 kg per year of solid waste. The annual solid waste generated in 1990 from the coating operation would be 1,700 kg under RA I, 1,600 kg under RA II, and 1,680 kg under RA III, respectively. The nationwide solid waste impacts for all of these regulatory alternatives are considered reasonable.

b. *Energy Impact.* The air pollution control equipment for this industry may use steam generated by fuel oil combustion, electricity, and natural gas. The blowers, cooling towers, boiler support systems, and all instrumentation are electrically driven. Boiler systems (to produce steam for regeneration of adsorbers and operation of distillation columns) are generally fired with fuel oil. An 80 percent thermal efficiency was assumed for the fuel oil usage. Incinerators used to burn VOC are fired with natural gas. In 1990, the annual nationwide energy consumption by coating mix preparation equipment would be 2.7 TJ if they are required to vent to an adsorber. The annual energy consumption in 1990 of coating operations controlled to the level of RA I, RA II, and RA III would be 27 TJ, 43 TJ, and 40 TJ, respectively. Control of the coating operation to the level of RA IV (total enclosure and incinerator) would result in an annual energy consumption of 150 TJ in 1990.

c. *Costs and Cost Effectiveness.* The impacts of the regulatory alternatives for each emission source on the cost-effectiveness values and incremental costs are included in Table 2.

The capital cost for covers and conservation vents for the coating mix preparation equipment (RA II) at a polymeric coating line would be $1,920 to $6,720 based on the range of model plants. The capital cost for venting the equipment of a coating operation adsorber (RA III) would be $24,800 to $43,000. For a typical line, the annualized control cost for the coating mix preparation equipment would be −$4,900 to −$1,040 for RA II and −$130 to $4,870 for RA III.

The capital cost for a coating operation controlled to the SIP level (RA I) would be $261,000 to $488,000. The capital cost for RA II (partial enclosure) and RA III (total enclosure) using a carbon adsorber would be $271,000 to $693,000 and $284,000 to $710,000, respectively. Under RA IV, which is the use of a total enclosure and incinerator, the capital cost would be $294,000 to $344,000. The annualized cost for a coating operation controlled to the baseline level would be −$74,000 to $66,000. Under RA II and RA III, the annualized control costs for fixed-bed carbon adsorbers would be −$96,000 to

$105,000 and –$105,000 to $102,000, respectively. The annualized cost of RA IV would be $100,000 to $152,000; this increase relative to RA III reflects the high fuel costs and the loss of the credit for recovered solvents.

The cost-effectiveness valus and incremental cost-effectiveness values for control of the coating mix preparation equipment by means of covers (and conservation vents) are negative for all model plants. There is some return to the company for installing this equipment. This results from the relatively high value of the solvent and the low annual cost of the vapor containment equipment. The cost effectiveness of RA III, controlling emissions from the coating mix preparation equipment for all model plants with the adsorber for the coating operation, is $540/Mg or less. The incremental cost effectiveness is $1,130/Mg or less.

For the coating operation, the cost effectiveness is relative to control of the drying oven only. For RA II (partial enclosure and oven to carbon adsorber), the average and incremental cost effectiveness is a maximum of $780/Mg. For RA III (total enclosure and oven to carbon adsorber), the average cost effectiveness is a maximum of $750/Mg, and the incremental cost effectiveness is a maximum of $1,140/Mg. For RA IV (total enclosure and oven to incinerator), the average cost effectiveness ranges from $480 to $5,000/Mg. For all model plants, the incremental cost of using an incinerator is greater than $3,000/Mg. This is because an incinerator destroys the valuable solvent; whereas, the adsorber reclaims it.

d. *Economic Impact.* The potential industry-wide economic impact of the regulatory alternatives were examined by analyzing the probable effects on the model plants. The analysis was performed by combining the costs of controlling all three emission sources. Whereas 13 different control scenarios were examined, 9 different types and sizes of model plants were included in the analysis. Comparisons of costs for each type and size of model plant were made with the baseline and were converted to per-unit-production-cost estimates and to the percentage change in costs over the baseline. The net changes in production costs were then added to the estimated output value of the products produced and sold by the plant to determine the added value and relative change in price which would have to occur without altering previous profit levels. Industry and market data were then used to evaluate the market impact of these changes on investment, inflation, employment, and the balance of trade.

The estimated relative change in production costs for the different control scenarios ranged from a –0.35 percent to 5.2 percent. Due to economies of scale, smaller size plants tended to have greater cost increases (or lesser cost decreases) than larger plants. Differences also existed between plants of similar size by type of product coating. Model plants engaged in the rubber coating of industrial fabrics had the plant with the highest relative cost value and greatest variability in relative production costs. Model plants engaged in urethane coating operations tended to have the lesser relative cost changes and the least variability as the result of the application of the different control scenarios. The most significant changes in production costs, however, occurred when carbon adsorbers (RA III) were replaced by incinerators (RA IV) in the coating operation. In most instances, for all types and sizes of plants, the relative (percentage) change in production costs over the baseline more than doubled. Whereas the maximum relative change in production costs was less than 2.5 percent for all model plants using carbon adsorbers, the maximum relative change in production costs was more than 5 percent for plants employing incinerators to reduce emissions.

The retail price impact analysis assumed that all of the increase (or decrease) in production costs would be passed on to the consumer. Because the products produced by polymeric coaters are usually intermediate products with limited substitutes and represent only a small portion of the cost of the final fabricated product, the relative price impact on final product demand is likely to be minuscule. Therefore, it is likely that any price change in the intermediate product price would not have a noticeable effect on the final product price or demand. With the additional marketing costs and profit margins, the value and sale price of any intermediate product would exceed the basic production costs if the firm is to remain in business. Consequently, when the cost increase from the regulatory alternative is added to the higher value retail or intermediate product sale price, the relative percentage change in said price would be less than that base upon production costs. In this analysis, the relative change in the price of the intermediate product is less than one-half of the relative change in production costs as the result of different regulatory alternatives. For some regulatory alternatives, these relative changes are positive, representing cost and price increases; and in other instances they are negative, representing cost and price decreases. For example, the 5 percent maximum production cost increase with the use of incinerators results in only a 2 percent increase in the selling price. On the other hand, if production costs were to decrease by 5 percent, the selling price of the product would also decrease by some lesser amount. Overall, the relative change in the retail prices for all the polymeric coated products tended to be less than one-half of those observed as production costs.

The demand for most of the products produced by polymeric coaters is derived from the demand for some final product. More than one-half of products produced by these coaters are used by manufacturers of automobiles; and for these manufacturers, the cost of polymeric coated products constitutes only a small portion of the production costs. Therefore, the impact of any change in the price of the intermediate product on the price of the final product sold to the ultimate consumer will be negligible. Furthermore, production costs of some of the polymeric coating operations are actually less when certain regulatory alternatives are employed. It is, therefore, unlikely that the proposed NSPS would have any measurable effects upon the investment and productivity of polymeric coating plants or on the aggregate level of employment, inflation, and U.S. balance of trade.

e. *Rationale for Selecting BDT.*— (1) *Coating mix preparation equipment.* Regulatory Alternative III, based on the use of covered equipment ducted to a 95 percent efficient control device, achieves significant emission reduction at a reasonable cost over much of the range of annual solvent utilization found in this industry. However, the incremental emission reduction of this level of control is small compared to a relatively high control cost for mix equipment that serves coating lines with annual solvent utilization at the lower end of the spectrum. For this reason, an annual solvent utilization cutoff has been designated below which BDT is defined as the installation and use of covers equipped with conservation vents on each piece of coating mix preparation equipment (Regulatory Alternative II).

The level of annual solvent use selected for the cutoff is 150 m^3. The Agency reviewed annual solvent utilization data received from industry and observed a discontinuity in the distribution between about 130 m^3 and 170 m^3. Therefore, the midpoint of this range (150 m^1) was selected because it

appears to reflect a natural division between small- and medium-size plants in this industry.

For equipment that serves coating lines with solvent utilization of at least 150 m ^{3}/yr, Regulatory Alternative III was chosen as BDT. The average cost effectiveness ranges from a net credit to $180/Mg, and the incremental cost effectiveness ranges from $220/Mg to $610/Mg. There are limited adverse environmental impacts, if any, to such an arrangement because the emissions from the coating mix preparation equipment are such a small portion of the total emissions ducted to the control device. For equipment that serves coating lines with solvent utilization of at least 110 m ^{3} but less than 150 m ^{3}, Regulatory Alternative II was selected as BDT. Average and incremental cost effectiveness values are identical net credits. No adverse environmental impacts are expected from this control technology.

(2) *Coating operation.* Regulatory Alternative III, which is based on the use of a total enclosure and a carbon adsorber, was selected as BDT for the coating operation. Its incremental cost effectiveness ranges from a net credit to $1,100/Mg, and average cost effectiveness ranges from a net credit to $750/Mg. The environmental impacts were judged to be reasonable. The highest level of control considered was 96 percent (RA IV), based on the use of a total enclosure and an incinerator. The incremental cost effectiveness associated with RA IV is unreasonable ($3,000/Mg to $28,000/Mg), and, thus, it was not selected. The incremental cost effectiveness associated with RA II, use of a partial enclosure and a carbon adsorber, is judged to be reasonable (ranging from a net credit to $780/Mg), but a lower level of VOC control is achieved; therefore, RA II was not selected as BDT.

E. Selection of Affected Facility

1. *General Principles.* The choice of the affected facility is based on the Agency's interpretation of section 111, of the Clean Air Act and on the judicial construction of its meaning (*ASARCO, Inc.*, v. *EPA*, 578 F. 2d 319 (D.C. Cir. 1978)). Under section 111, standards of performance must apply to new stationary sources of pollution, i.e., sources that begin construction, reconstruction, or modification after EPA proposes the standards. A "source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" (Section 111(a) (3)). Most industrial plants, however, consist of numerous pieces or groups of equipment that emit air pollutants and that may be viewed as "sources." The EPA, therefore, uses the term "affected facility" to designate the equipment, within a particular kind of plant, that is chosen as the "source" covered by a given standard.

In designating the affected facility, EPA determines whih piece or group of equipment is the appropriate unit (the source) for separate emission standards in the particular industrial context involved. The determination is made in light of the terms and purpose of section 111. One major consideration in this decision is that a narrow designation usually brings replacement equipment under standards of performance sooner.

If, for example, an entire plant is designated as the affected facility, the standard would cover no part of the plant unless the replacement causes the entire plant to be "modified" or "reconstructed." The plant is *modified* only if its aggregate emissions are increased by a physical change in it or by a change in its method of operation (40 CFR 60.14). Similarly, the plant is *reconstructed* only if: (1) The cost of replacement exceeds 50 percent of the fixed capital cost required to build a comparable new facility and (2) meeting the applicable standards is technologically and economically feasible (40 CFR 60.15).

On the other hand, if each piece of equipment is designated as an affected facility, then as each piece is replaced, the new piece will be subject to the NSPS. Because the purpose of section 111 is to minimize emissions from new sources by achieving emission limitations reflecting BDT at all new sources, a narrow designation of the affected facility is generally presumed to be the best choice. It would ensure that the standard would cover new emisson sources within plants as they are installed. A broader designation of the affected facility may be selected if it would: (1) Result in greater emission reduction than would a narrow designation or (2) avoid unreasonable costs.

2. *Alternative Affected Facilities.* A single coating operation requires more than one mix vessel. In accordance with the presumption that the more narrow definition of affected facility is proper, each emission source (mix tank, coater, and oven) was evaluated as a separate affected facility. Two alternatives were considered for the mix vessels: (1) Each individual piece of equipment would be designated as an affected facility and (2) groups of equipment would be so designated. In addition, two alternatives were considered in selecting the affected facility at the coating operation: (1) The application/flashoff area and oven as a single affected facility and (2) designating the two as two separate affected facilities. These narrower designations would mean that each new coating applicator, drying oven, and individual piece or group of coating mix preparation equipment installed in an existing facility would require control. Alternatively, the designation of the coating operation with associated coating mix preparation equipment as single affected facility was also considered. As a result of this broader designation, existing coating mix preparation equipment and existing coating applicators or drying ovens could be replaced and not become subject to the NSPS because such equipment may not be sufficiently expensive to qualify as reconstruction.

3. *Rationale for Selecting Affected Facility.* The possibility of treating the coating application/flashoff area and the drying oven as individual affected facilities was considered but deemed impractical because of their close proximity and relationship. The oven draft entrains fugitive emissions from the application/flashoff area. In some line configurations, there would be no practical way to separate these two sources for measuring emissions in order to conduct a performance test. The difficulty of performing this measurement would be compounded because the relative emissions from the application station and oven would fluctuate on a given line as a function of variables such as draft from each source, volatility of the solvent, production rate, solvent content of the coating, thickness of coating, and distance from the oven inlet to the point where coating is applied. The cost to control the combined emissions from these two sources is reasonable.

Three possible affected facility designations for coating mix preparation equipment were considered: (1) A group of coating mix preparation equipment at a plant with a control device, (2) each individual piece of coating mix preparation equipment at a plant with a control device, and (3) the combination of the coating operation and all associated coating mix preparation equipment.

In considering the first affected facility designation (a group of coating mix preparation equipment at a plant with control device), there were difficulties in precisely defining a "group" of equipment. These difficulties include the facts that (1) the number of pieces of equipment that serve a single coating operation is variable; (2) a group can serve more than one coating

operation and (3) coating mix preparation equipment may be located in different areas (and floors) within a polymeric coating plant, making control of emissions technically difficult and economically unreasonable. In addition, the cost for the highest level of control of either single pieces of coating mix preparation equipment or a group of coating mix preparation equipment is reasonable only if control is achieved by venting emissions to the carbon adsorber controlling coating operation emissions (common adsorber). Therefore, it was decided not to designate a group of coating mix preparation equipment as the affected facility.

The smallest unit of coating mix preparation equipment that it is technically possible to control is an individual vessel. Thus, the designation of each piece of coating mix preparation equipment at a plant with a control device as the affected facility would appear to be the most consistent with the Clean Air Act. However, as stated previously, the cost to control individual pieces of coating mix preparation equipment with add-on control devices is not reasonable. The Clean Air Act allows a broader designation of the affected facility to be selected if it would result in greater emission reduction than would a narrow designation. This is the case for the broader affected facility designation of the combination of the coating operation and all associated coating mix preparation equipment. Under this broader definition, a new coating operation could be installed that would use existing coating mix preparation equipment, and, thus, the equipment would have to be controlled. In addition, an existing coating operation could be modified or reconstructed; and, thus, control of associated existing coating mix preparation equipment would be required. The cost to control existing coating mix preparation equipment that is associated with an affected coating operation under the proposed NSPS is reasonable. The broader definition may exclude some new coating mix preparation equipment from becoming subject too the NSPS because the cost of adding new coating mix preparation equipment to an existing coating line would not be sufficient to be considered a reconstruction. However, the number of new mix vessels that would not be controlled would be exceeded by the number of existing mix vessels that would become subject to the standard. The number of pieces of coating mix preparation equipment serving a coating line at existing plants ranges from 1 or 2 to more than 30 vessels. New mix vessels are usually added to existing coating lines one or two at a time. The combination of the coating operation and all the coating mix preparation equipment that serve it was selected as the affected facility because the broader designation results in increased VOC emission control.

4. *Other Considerations.* It is possible that some multiplant operations could manufacture coatings at one plant site and ship those coatings to another of the company's plants for use in the coating operation or sell them to other companies. If the coating operation were considered a new source, the coating mix preparation equipment located at the first plant would not be considered an affected facility even though the equipment would serve an affected coating operation. Controlling coating mix preparation equipment under these circumstances would, in effect, be treating these sources as separate affected facilities, and, for the reasons discussed above, the Administrator has determined that this is inappropriate. Therefore, the coating operation with all onsite coating mix preparation equipment that serve it is defined as one affected facility.

F. Selection of Format of Proposed Standard

1. Coating Mix Preparation Equipment

a. *Alternative Formats Considered.* The three formats considered for this facility were mass emission limits, percent reduction standards, and a specification on acceptable equipment. Mass emissions vary considerably as a function of temperature, vapor pressure and molecular weight of the solvent, vessel capacity, operating time, and throughput rate. Because of the wide variation in the amount of VOC vapors being emitted from these vessels, a mass emission limit cannot be selected. Such a limit would not be achievable on a worst-case bais (i.e., large vessel capacity, high vapor pressure, and high utilization rate) and, at the same time, would allow the construction of systems that are less effective than BDT. On this basis, the Administrator rejected a mass emission format for the proposed standards for coating mix preparation equipment.

The possibility of establishing a percent reduction standard was examined. Emissions from mix vessels are variable, and airflow rates are often too low to measure. This makes representative emission measurements expensive and difficult, if not impossible, to conduct. Total emissions from these vessels have not been measured because to do so would requrie that the operation of the vessel be strictly controlled during the testing period. Because of methodology problems, it may not be possible to measure both the flow rate and the concentration simultaneously; therefore, the accuracy of the emission measurement would be in question. For these reasons, it was concluded that it was impracticable to measure the emissions exiting the vessel. For these same reasons, it would also be impracticable to measure the emissions entering a control device. Therefore, it was concluded that a percent reduction standard is not feasible for coating mix preparation equipment.

For these reasons, an equipment standard was examined. Section 111(h) states that EPA may "promulgate a design, equipment, work practice, or operational standard" whenever either: ("A) a pollution . . . cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or . . . (B) the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations." Coating mix preparation equipment presents the situation described in (B) above; therefore, an equipment standard is appropriate.

An equipment standard for coating mix preparation equipment has an advantage in that it accounts for the wide variation in emissions and flow rates being emitted from such vessels, and it would require the use of BDT controls. The coating mix preparation equipment BDT (covers and ducts to the control device or covers equipped with conservation vents) generally requires no maintenance and, thus, ensures continued compliance.

b. *Format Selected.* The proposed format for the coating mix preparation equipment standard is an equipment format.

2. Coating Operation.

a. *Alternative Formats Considered.* The formats considered for allowable emissions from the coating operation were: (1) VOC concentration, (2) mass of VOC per unit of production, (3) mass of VOC per unit weight or volume of coating or coating solids, and (4) percent reduction. Each format is defined and the major advantages and disadvantages are discussed below.

The first format considered, a restriction on the concentration of VOC in the exhaust from the control device, is the easiest to enforce because direct emission measurments can be made using EPA Reference Method 25A.

However, the concentration of solvent emitted from the control device does not reflect total emissions because of the possibility of fugitive emissions from the coating application/flashoff area, nor does it limit total emissions because of the effect of varying the exhaust flow rates, i.e., increasing dilution air. For example, two similar coating operations may produce the same amount of VOC yet have different inlet concentrations to the control device because of variations in capture of emissions from the application/flashoff area and because of varying oven airflow rates. A standard based on outlet concentration would require the line with the higher concentration (lower airflow rate) to control more VOC emissions than the line with the lower inlet concentration. Because management of airflow rates is generally under the control of the operator, this format would not reflect application of BDT.

The second format considered is mass of VOC emissions per unit of production (i.e., kg of VOC per 1,000 m^3 of substrate). Its advantage is that it directly relates emissions to plant productivity. Its major disadvantage is that it would result in different levels of control at different plants because of variations in coating thickness, the number of passes through the coater, and coating solvent content. Because there is no fixed relationship between solvent use and area of substrate coated, there appears to be no way to establish emission limits based on the area of substrate coated. A plant applying thinner coatings could achieve the same level of emissions per 1,000 m^3 of product as a plant applying a thicker coating but could use a less efficient control system than BDT to do so.

The third format considered is mass of VOC emissions per volume of coating, volume of coating solids, or mass of coating solids. Because of the variety of coating formulations used, a single mass emission standard per volume of coating selected at the level of certain low solvent coatings may not be achievable by all sources that do not have these low-solvent coatings available. The required reduction in this case may be greater than 95 percent. If the mass emission standard were based on a coating of higher solvent level, for example 30 to 40 percent, some sources that could reduce emissions by a total of 93 percent cost effectively may be exempted from having to do so. In other words, the standard would not be sufficiently stringent to reflect BDT.

The fourth format, percent reduction, could be dermined by a liquid material balance or by the efficiency of recovery of the gaseous VOC emission. The advantages of this format are that it reflects BDT at all plants and the plants are allowed flexibility in the method selected for achieving the percent reduction.

A liquid material balance can be used when the VOC is recovered by an adsorber or condenser recovering solvent form a single coating operation and is advantageous because of the relative ease with which compliance can be determined by a material balance. The measurement of percent reduction based on gaseous emissions is possible although it may entail more expense than a liquid material balance. Determination of compliance with this format requires capture of all VOC emissions and venting them through stacks suitable for testing. This can be assured only by installation of total enclosures around the emission sources. If such enclosures are not already in place or part of the permanent design, temporary ones must be constructed, or the source must shut down all sources of VOC other than the coating operation. Any fugitive emissions from the affected coating operation would be exhausted through building ventilation systems or other room exhausts such as drying ovens that are suitable for test measurements.

A disadvantage of the percent reduction format in the absence of a solvent consumption cutoff is that it does not credit improvements in the coating or process. For example, reduction in the VOC content of a coating or in the amount of coating applied per unit of substrate manufactured would not be credited toward compliance. This might discourage development of low-solvent coatings. However, because the proposed standards would apply only to lines that use more than 110 m^3 of solvent per year (discussed in the next section), coating operations that use low-solvent coatings would probably not be affected by the standards. The cutoff, therefore, provides an incentive to develop and use low-solvent coatings.

b. *Format Selected.* The proposed format for the coating operation standard is percent reduction. It assures both effective capture of the emissions from the coating application/flashoff area and efficient control.

G. Selection of Actual Standards

1. Need for Multiple Standards. Section 111 of the Clean Air Act allows the Agency to distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing standards. There are two distinct emission sources at a polymeric coating plant: Coating mix preparation equipment and the coating operation. The technologies used to control VOC emissions and, thus, the control efficiencies are different for each emission source. Therefore, different standards are proposed for control of VOC emissions from the two emission sources at a polymeric coating facility. The standards are summarized in Table 3.

TABLE 3.—SUMMARY OF STANDARDS AND IMPACTS FOR A POLYMERIC COATING LINE [1]

Emission source	Annual solvent use, m^3	Format of standard	Control required	Emission reduction, Mg/yr [1]	Incremental cost effectiveness, dollar/Mg [2]	Solid waste impact kg/yr [3]	Energy impact, TJ/yr [3]	Waste water impact, m^3/yr [3]
Coating mix preparation equipment.	>110 <150	Equipment standard.	Installation and use of vapor-tight covers that remain in place at all times except during addition or withdrawal of ingredients or visual inspection. Covers equipped with conservation vents.	3.8	−273	0	0	0
Coating mix preparation equipment.	>150	Equipment standard.	Ventilation to a 95 percent efficient control device.	[4] 14.6–29.3	218–611	5–28	0.2–0.3	59–117

TABLE 3.—SUMMARY OF STANDARDS AND IMPACTS FOR A POLYMERIC COATING LINE [1]—Continued

Emission source	Annual solvent use, m [3]	Format of standard	Control required	Emission reduction, Mg/yr [1]	Incremental cost effectiveness, dollar/Mg [2]	Solid waste impact kg/yr [3]	Energy impact, TJ/yr [3]	Waste water impact, m [3]/yr [3]
Coating operation.	>110	Percent reduction.	Total enclosure on application/flashoff area and ventilation of total enclosure and oven to a 95 percent efficient control device.	[5] 10.3–258.1	−944–1,140	[5] 4–284	[5] −0.1–3.7	[5] 48–1,060

[1] Relative to baseline, which is uncontrolled mix equipment and oven control of the coating operation.
[2] The incremental cost effectiveness of the control option selected as BDT relative to the next less stringent control option, first quarter 1984 dollars.
[3] For coating lines controlled by fixed-bed carbon adsorbers, relative to baseline.
[4] Impacts vary depending on the size of model coating facilities and, therefore, are presented as ranges.
[5] The upper end of the range is high because for epoxy-coated fabric coating lines, the baseline emissions are equal to uncontrolled.

2. Rationale for Standards Selected

a. *Coating Operation.* The BDT for the coating operation is the use of a total enclosure on the coating application/flashoff area and the venting of these captured emissions and the oven emissions to a control device. The format for the proposed standard would require control of a fixed portion of the total emissions from the coating operation. The value selected for the proposed standard for the coating operation is 93 percent reduction of the VOC emitted from the coating operation. The rationale for selecting this value is presented below.

As discussed in section C.1.a above, the overall efficiency of a control system is the product of two components, capture and control. If the capture efficiency is perfect, 100 percent, and the emissions are directed to an acceptable carbon adsorber, the overall emission reduction would be no less than 95 percent. Thus 95 percent control is the maximum control that could be required. In fact, the overall control efficiency may be less because the total enclosure may have some very low level of fugitive emissions.

A performance test to determine capture efficiency of the total enclosure and overall control efficiency of the coating operation was conducted at a polymeric coating plant. The determination of either overall control efficiency or the capture efficiency of the enclosure were precluded by fugitive VOC emissions within the building that were drawn into the enclosure and test methodologies that were subsequently judged to be inadequate for measuring some liquid streams. For this reason, data on the performance of partial and total enclosures in similar web-coating industries were used to select the actual proposed control efficiency for this NSPS.

Plants in the flexible vinyl coating and printing industry (FVCP) and the publication rotogravure industry are similar to polymeric coating plants in that solvent-borne coatings are applied to a continuous web of supporting material. The solvent content (by volume) contained in typical coatings used in the FVCP and rotogravure industries is within the range of coating formulations used in polymeric coating facilities. The VOC capture and control systems are very similar to those used in polymeric coating. Fixed-bed carbon adsorbers are common control devices in all three industries. A FVCP print line with partial capture of fugitive coater emissions by a hood within the print room achieved short-term (less than 2 hours) capture efficiencies of 90 to 94 percent based on gas material balances. Combined with a carbon adsorber efficiency of 95 percent, total control efficiencies of 86 to 90 percent were achieved. Two publication rotogravure presses, each with a cabin-like structure around the top third of the presses to capture fugitive emissions (equivalent to a partial enclosure), achieved short-term (9-hour and 52-hour) liquid material balance control efficiencies of 89 to 92 percent. Based on these data, the use of a partial enclosure and carbon adsorber can achieve overall control efficiencies up to 92 percent. The use of a total enclosure and carbon adsorber (BDT level of control) should be able to achieve a higher level of control because of the greater fugitive emission capture efficiency of a total enclosure.

In the pressure sensitive tape and label (PSTL) industry, solvent-borne coatings are also applied to a continuous web of supporting material, with VOC capture and control systems very similar to those used at polymeric coating facilities. The solvent content (by volume) of typical coatings used in the PSTL industry is within the range of coatings applied at polymeric coating plants. The same types of coating applicators and drying ovens are used at both PSTL and polymeric coating plants. Fixed-bed carbon adsorbers are common at both types of plants. At one PSTL plant, the building in which the four coating lines are located is sealed tight enough to allow a slight negative pressure in the work area relative to the outdoors. The drying ovens operate at a slight negative pressure relative to the room, and the oven makeup air is pulled directly from the coater work area. There are also hoods that are located over the coaters and are vented to the drying ovens. This is a fully enclosed, tight system in which air flows from outdoors into the building, into the oven, and then to a fixed-bed carbon adsorber. The company produces a wide variety of products; and coating operations are typified by short production runs and low VOC concentrations, which are also typical of polymeric coating lines. These operating conditions make this PSTL plant a difficult control situation. However, the facility demonstrated a 4-week overall VOC emission reduction of 93 percent based on a liquid material balance. On this basis, EPA determined that an emission reduction of 93 percent is achievable by BDT controls.

The highest level of control considered for the proposed coating operation standard was 95 percent, based on a theoretical total enclosure capture efficiency of 100 percent and a control device efficiency of 95 percent based on a carbon adsorber (BDT level of control). However, the PSTL test data indicate that 95 percent control may not be achievable with BDT controls under all circumstances. Therefore, 95 percent was rejected as the level of the standard. The use of a partial enclosure and carbon adsorber achieved control efficiencies up to 92 percent, indicating that the BDT level of control should be

higher than 92 percent. The PSTL data demonstrate that a level of 93 percent control is achievable by BDT. Therefore, because 93 percent control is the highest level of control that would still ensure achievability, the proposed standards would require this level of control for the coating operation. Compliance would be demonstrated by emission tests or documentation of the installation of a total enclosure as descibed in section K.3 in this Preamble.

In addition, low-solvent coatings can be used to meet the standard by keeping annual solvent consumption below the cutoff of 110 m^3/yr (described in section H). Low-solvent coatings currently in use are within the annual solvent consumption cutoff, and it is expected that this trend will continue.

b. *Coating Mix Preparation Equipment.* The proposed standard for coating mix preparation equipment is an equipment standard. Depending on solvent utilization, the BDT for this equipment is the use of covers to contain all VOC emissions and the ducting of those emissions to a control device that is at least 95 percent efficient or the installation and use of covers equipped with conservation vents. No control of VOC emissions from coating mix preparation equipment is required at lines below the annual solvent use cutoff (discussed below in section H) because mix equipment control is not cost effective if a separate control device is used to control mix equipment emissions.

H. Selection of Annual Solvent Consumption Cutoff

Section 111(b)(2) of the Clean Air Act gives the Administrator the authority to "distinguish among classes, and sizes within categories of new sources for the purposes of establishing * * *" performance standards. Because the cost of control may be unreasonable at plants with very low solvent usage (e.g., at the 30 percent of polymeric coating plants using low-solvent coatings), a cutoff limit was sought. The difference in cost effectiveness results not from technological differences but rather from decreasing emission reduction and recovery credits in conjunction with a cost for controls that decreases less rapidly. Therefore, technological differences were not used to determine the cutoff. Also, there is no difference in the ability of plants of different sizes to afford the controls. The economic and price impacts in all cases are reasonable. Therefore, only the cost effectiveness of control was used to determine the size cutoff. It was judged that an incremental cost effectiveness of $1,100/Mg would be reasonable. This corresponds to a solvent usage of 110 m^3/yr. Therefore, coating operations and associated coating mix preparation equipment with an annual solvent usage of less than 110 m^3 would not be required to control VOC emissions.

The lower operating costs due to increased solvent recovery credits for larger solvent users provides an economic deterrent to the construction and operation of smaller operating units to avoid the regulation. Once a line has exceeded annual solvent usage of 110 m^3/yr and has installed a control system, the line remains subject to the standards regardless of fluctuations in annual solvent use. Once the control equipment has been purchased, the capital recovery costs will occur whether the equipment is operated or not. Considering only labor and utilities costs and solvent recovery credits, the cost to operate the control device when solvent use decreases to as low as 25^3/yr is still reasonable.

I. Modification and Reconstruction Considerations

Under the General Provisions for modification (40 CFR 60.14) and reconstruction (40 CFR 60.15), facilities that are modified or reconstructed after the date of proposal of a standard are subject to the standard.

Upon modification of any emission source, an existing facility becomes an affected facility and, therefore, subject to the standard. A modification is any physical or operational change to an existing facility that results in an increased emission rate of any pollutant to which the standard applies, with certain exceptions, including the following: Routine maintenance, repair, and replacement; production increases resulting from an increase in the hours of operation; use of an alternative fuel or raw material if the existing facility was originally designed to accommodate it; addition or replacement of equipment for emission control (as long as the replacement does not increase emissions); production increases not requiring a capital expenditure; and relocation or change of ownership of an existing facility (40 CFR 60.14). Therefore, if a polymeric coating line undertakes more efficient scheduling or increases hours of operation to increase production, such changes by themselves would not cause an existing facility to become subject to the standards. Changes in solvents and raw materials would also be exempted if the equipment were originally designed to handle the new materials.

An increase in the VOC emissions or emission rate from existing coating mix preparation equipment would most likely result from an increase in the length of time required to prepare coating mixtures, a change in raw materials, or construction of new coating mix preparation equipment. However, an increase in the length of preparation time (e.g., by increasing the number of shifts) would not constitute a modification because it would only be an increase in the hours of operation. A change in raw materials processed would be considered a modification only if the coating mix preparation equipment was not originally designed to accommodate the new raw materials. The addition of new pieces of coating mix preparation equipment could result in a small emission source bringing the existing coating operation under the standard. However, the addition of a new piece of coating mix preparation equipment alone generally is not expected to constitute a modification to the existing coating operation with associated coating mix preparation equipment. The General Provisions (§ 60.14) would exempt specifically as a modification the addition of a piece of coating mix preparation equipment such that the production rate increases if that increase can be accomplished without a capital expenditure on that facility. A capital expenditure is defined in § 60.2 of the General Provisions. Because individual pieces of coating mix preparation equipment are low-cost items relative to the capital cost of the coating operation, it is expected that the addition of a new piece would not be considered a capital expenditure. In any event, if the addition of new coating mix preparation equipment to an existing coating operation were to constitute a modification, the cost effectiveness of controlling emissions from the entire affected facility is reasonable.

In the case of coating operations, an increase in the VOC emissions or emission rate would most likely be related to increased production. Production increases contributing to emissions or emission rate increases can result from changes in web width, line speed, or hours of operation. However, an increase in hours of operation and changes in line speed and web width that can be accommodated within existing equipment capacity and that do not require capital expenditures are specifically excluded from modification considerations in the General Provisions. The maximum web width for any given coating line cannot be increased significantly without installing essentially all new coating equipment. The maximum line speed for a given facility could be increased, although this would require a significant cost for

larger fans, larger/faster motors that drive the web, larger oven, and higher capacity boilers for the oven. If an increase in the line speed or web width resulted in an increase in the emission rate and if the cost were enough to be considered a capital expenditure, the facility would be considered modified and, therefore, subject to the standard. All control techniques previously discussed are applicable at a reasonable cost to modified polymeric coating plants; therefore, the proposed standard is determined to be reasonable for such facilities.

Reconstruction is defined as the replacement of components of an existing facility to the extent that the fixed capital cost of the new components is greater than 50 percent of the fixed capital cost of a comparable entirely new facility and that compliance with the standard is technically and economically feasible. An increase in emission rate need not occur.

Replacement of a single piece or even several pieces of coating mix preparation equipment is unlikely to constitute 50 percent of the total installed cost of a comparable entirely new polymeric coating operation with associated coating mix preparation equipment. Replacement of the coater or oven could, in some cases, be considered a reconstruction. Although these changes are not expected, a coating operation with associated coating mix preparation equipment could become subject to the standards through reconstruction. The costs for implementation of the proposed standards at reconstructed affected facilities are reasonable.

J. Monitoring Requirements

Monitoring requirements are included in the proposed standard to ensure good operation and maintenance of the control device and to ensure that emission control requirements are met. Monitoring procedures for the proposed standard were chosen based on three factors: Reasonable cost, ease of execution, and utility of the resulting data to both the owners or operators and EPA for ensuring continued proper operation. During the initial performance test, continuous control device monitoring readings would be taken. After the performance test, records of all continuous monitoring data must be maintained.

1. *Solvent Use.* For affected facilities using less than 100 m^3 of solvent/yr, the plant would monitor and maintain records of the amount of solvent delivered to the coating mix preparation equipment of an affected coating line for the polymeric coating of supporting substrates. The plant would also make semiannual estimates of projected annual solvent use. These estimates are required to ensure installation of proper controls by the time line solvent use exceeds the cutoff so that the line is not operating out of compliance at any time.

2. *Coating Mix Preparation Equipment.* For affected facilities using at least 110 m^3 of solvent/yr but less than 150 m^3 of solvent/yr, the plant will follow the solvent use monitoring procedures described above. Otherwise, there would be no monitoring requirements for any affected mix vessel.

3. Coating Operation.

a. *Solvent Recovery Device for a Single Coating Operation.* There are no monitoring requirements in this situation.

b. *Solvent Recovery Device for Multiple Emission Sources.* Plants that vent emissions from multiple sources to carbon adsorbers would be required to record continuously the VOC concentration from the carbon adsorber. Alternatively, plants may record continuously the concentration in both inlet and outlet gas streams. This option may be preferred by the plants in cases where the performance test showed that the carbon adsorber was more than 95 percent efficient. In this case, an increase in the outlet concentration would not necessarily indicate a potential compliance problem if the overall control device efficiency remains equal to or better than 95 percent. The purpose of the monitoring is to indicate the status of operation and maintenance practices for the carbon adsorber. Monitors for these types of continuous VOC concentration measurements typically cost about $5,000 for outlet measurements and $20,000 for inlet and outlet measurements. A recording device would also be installed so that a record of the measurements is produced.

At plants that control VOC emissions from multiple sources with a condenser, the exhaust cooling temperature would be continuously monitored to ensure that the condenser continues to operate under the same conditions as it did during the performance test. A monitor for continuous temperature measurements typically costs about $1,200.

c. *Incineration Control Systems.* All plants controlled by an incinerator would be required to monitor continuously the temperature of the combustion gases to ensure that the incinerator continues to operate under the same conditions as it did during the performance test. A temperature drop below a given value would be an indication of improper incinerator operation. For thermal incinerators, the combustion gas temperature would be monitored and recorded. If the combustion device is a catalytic incinerator, the gas temperature upstream and downstream of the catalyst bed would be monitored and recorded. Temperature monitoring equipment is usually a standard feature on most incinerators. For this reason, the requirement to monitor temperature should not be an additional cost burden on the industry. However, if the measurement equipment has to be acquired separately, the cost to purchase and install an accurate temperature measurement device and recorder is estimated at $1,200.

d. *Capture Efficiency.* All coating lines that are demonstrating compliance with a gaseous material balance would continuously monitor an indicator of capture efficiency in addition to control device efficiency. The owner or operator would submit for the Administrator's approval a capture efficiency monitoring plan that identifies the parameters to be monitored during the performance test to allow subsequent monitoring to be used to indicate that the values associated with the operational parameters that were measured during the performance test have not changed.

e. *Equipment Alternative.* Any affected coating operation may comply with the standard by installing a total enclosure and ducting both those emissions and the oven emissions to a 95 percent efficient control device. Such plants must verify via continuous monitoring that the ventilation system of the total enclosure is operating properly. The owner or operator of the affected facility would submit for the Administrator's approval a monitoring plan for the enclosure. Examples of monitoring devices that might be installed include fan amperage meters, concentration trend indicators, pressure sensors to measure absolute pressure in the enclosure, and flow meters. The carbon adsorber outlet or both the inlet and outlet would also be continuously monitored for VOC concentration.

K. *Performance Test Methods*

Performance test methods would be specified that will verify that a facility complies with the standard. Because compliance can be achieved in a variety of ways, several compliance tests are discussed below.

1. Liquid Material Balance. The performance of a facility using a recovery device (adsorber or condenser) to control a single coating operation would be determined by comparing the

VOC content of the coating used to the volume of FOC recovered. The owner or operator would be required to measure and maintain records of the amount of coating applied over a 1-month period. The amount of coating applied would be measured with a flow meter (volume) or with a liquid weight device (mass). Reference Method 24, "Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings," would be used to determine the VOC content in each of the applied coatings. The mass of solvent recovered by the control device for the 1-month test period would be determined by weight or volume-density measurements. The overall average emission reduction could then be determined by comparing the mass of VOC in the coatings to the mass of VOC recovered over the 1-month period. For compliance purposes, the Agency generally encourages the use of averaging periods shorter than 30 days. However, because the 93 percent overall VOC emissions reduction is based on tests conducted over a 4-week period, the liquid material balance compliance test is for a 30-day period.

Solvent retained in the substrate after oven drying may pose a problem in determining the recovery efficiency by a liquid material balance because this solvent is not available for control; it would be measured as a portion of the solvent applied. Usually only a small quantity of solvent is retained. In this case, the owner or operator may elect not to measure the retained solvent, i.e, the performance test would be evaluated assuming that no solvent is retained. Higher retention levels may significantly affect the recovery efficiency; however, because of the wide variation, it was not possible to establish an upper limit to the amount of solvent retention that is allowable in most situations. While test data from one polymeric coating plant indicate that solvent retention was no more than 0.6 percent, estimates of retained solvent from other polymeric coating plants ranged from 0 to 50 percent of coating applied. Some segments of this source category have a legitimate need for solvent retention. These plants produce products that contain high levels of retained solvents. These products are typically cured after they are dried, and the solvent imparts properties necessary in further processing or handling of the product between drying and curing. Because of the need for retained solvent in some cases and the wide variation in amounts, owners and operators would be allowed to measure the retained solvent and, upon approval by the Administrator, subtract the measured amounts from the solvent applied. The owner or operator must submit a plan describing the measurement techniques to be used to calculate retained solvent and the need for such levels of retained solvent at the time of notification of startup. Approval of the measurement techniques by the Administrator would be made on a case-by-case basis because the large variations in substrates and coatings preclude the selection of a particular test method. In such cases, if the owner or operator can demonstrate to the Administrator that the specific properties must be achieved by retained solvent or that customer specifications require solvent retention (as required in certain Department of Defense specifications), the full amount of solvent retained would be subtracted from the solvent applied. The required demonstration for the necessity of retained solvent is intended to encourage owners or operators to decrease or eliminate solvent retention whenever possible.

Because of the uncertainties concerning the levels of retained solvent in products, the need for solvent retention, and test methods and the question about whether the issue applies to a small or large number of plants, the Administrator invites comments concerning this issue. Any comments submitted should contain specific information and data regarding any alternative course of action.

The liquid material balance is a continuous requirement that forms the basis of a compliance test. Thus, measurements of solvent applied would be made at least once for each combination of coatings and substrates processed by an affected coating operation unless coating formulation data are demonstrated to be equivalent. The result of any such measurements would then be a part of the compliance determination made each month.

The cost of the performance test is reasonable. A coating analysis by Reference Method 24 is estimated at $175 per coating sample. The requisite analytical equipment is standard laboratory apparatus, so no additional purchasing costs are expected. The cost of measuring the amount of coating applied and VOC recovered should be minimal. Collection of part of these data is already part of normal operating practice in this industry. Formulation data may be used providing that the source demonstrates that they are equivalent to Method 24 analysis results.

2. Gaseous Material Balance. If the VOC emissions from an affected coating operation and emissions from other sources such as existing lines or coating mix preparation equipment are ducted to the same control device or if VOC emissions are ducted to an incinerator, the percent reduction that is achieved would be demonstrated by a gaseous VOC material balance.

To determine compliance by gaseous material balance, the mass of all gaseous VOC, as carbon, would be measured from all emission sources at the coating operation, including those vented directly to the atmosphere and those ducted to the control device. To do so, a total enclosure would be constructed around the coating application/flashoff area for the purpose of containing for measurement all VOC emissions that occur in that area during the performance test. If a permanent total enclosure exists prior to the performance test and the enforcing agency is satisfied that the enclosure is capturing all fugitive emissions, the construction of a temporary enclosure would not be necessary. Otherwise, prior to the performance test, the owner or operator would either construct a temporary enclosure with a suitable testing stack around the coating applicator/flashoff area or shut down all other sources of VOC and continue to exhaust fugitive emissions from the affected coating operation through any building ventilation system and other room exhausts such as the drying oven that are suitable for test measurements.

Reference Methods 1, 1A, 2, 2A, 2C, 2D, 3, 4, and 25A would then be used (as appropriate) to determine the sampling location, volumetric flow rate, molecular weight, moisture content, and mass of VOC (as carbon) from the total enclosure, from any other capture system within the enclosure, from the drying oven, and across the control device. Gaseous emission measurements should be continuous simultaneous. Reference Methods 2 to 4 should be performed at least twice during the test period. Test runs should last 0.5 to 3 hours, depending on operations at the plant. The total time required for one complete performance test of an incinerator is estimated at 24 hours, with an estimated cost of $6,000 to $10,000 for each vent measured. The typical number of vents that would require testing is about five.

To determine if the control system complies with the standard, the gaseous VOC emissions exiting the control device attributable to the coating operation would be calculated using the ratio of gaseous emissions

measurements of feed to the recovery device from the coating operation to the total emissions entering the device from all sources. The product of this ratio and the total VOC discharged by the control device yields the gaseous emissions attributable to the coating operation alone. The efficiency of the control system would be determined by subtracting the VOC emissions due to the coating operation that are exiting the control device from the VOC emissions due to the coating operation that are entering the incinerator. The result of this calculation would be divided by the total VOC emissions from the affected coating operations to yield the control system efficiency.

During the performance test, the control device monitors would be operated continuously to establish baseline values for capture efficiency and control device efficiency that would be subsequently monitored to ensure proper operation and maintenance.

3. *Alternative Means of Compliance for Coating Operations.* An alternative means of compliance would be demonstrated by the documentation of installation and proper use of a total enclosure on the coating application/flashoff area and by the ventilation of emissions from the total enclosure and oven to a control device that is at least 95 percent efficient. The performance test would require that the efficiency of the control device be determined. The concentration of VOC (as carbon) in the control device inlet and outlet duct would be measured by Reference Method 25A. The results of this test combined with those of Reference Methods 1 through 4 yield the mass of VOC (as carbon) entering and exiting the control device. The efficiency of the device can be calculated from these data.

4. *Control of Coating Mix Preparation Equipment.* The efficiency of the device controlling emissions from the coating mix preparation equipment must be at least 95 percent. The performance test for the control device would be the same as discussed above in Section K.1.

L. Reporting and Recordkeeping Requirements

The reporting requirements necessitated by the proposed standard are authorized by section 114 of the Clean Air Act. The proposed standard would require the preparation of three types of reports. First, the General Provisions (Subpart A of 40 CFR Part 60) would require notification reports, which inform the Agency of facilities subject to the NSPS. These reports include notification of construction, anticipated and actual startup dates, and physical or operational changes. Second, reports of performance test results of the emission control systems would be required. These reports show whether a facility is initially meeting the level of the standard. Third, semiannual reports would be required showing that the facility continues to meet the standard; for plants demonstrating compliance by a liquid material balance, months of noncompliance would be reported to the Administrator quarterly.

If the owner or operator of a plant claims that an affected coating operation with associated mix equipment is below the size cutoff and, thus, would not be subject to the control requirements, a copy of a material flow chart indicating projected solvent use would be submitted with the notification reports. At the end of the initial year, the actual solvent use records would be reviewed for verification of this projected solvent use. If the initial annual solvent use is less than 110 m^3, semiannual estimates of projected solvent use would be made in susequent years, and actual solvent use records would be kept. When a projection or actual solvent use exceeds 110 m^3/yr, this fact would be included in the semiannual report. A control system must be installed and operating by the time the size cutoff is exceeded.

Similarly, if annual solvent consumption is at least 110 m^3 but less than 150 m^3 and the coating mix preparation equipment is controlled with covers equipped with conservation vents, solvent use records must be maintained and semiannual estimates of solvent use must be made as described above. When projected or actual solvent use equals or exceeds 150 m^3/yr, this fact must be included in the semiannual report. If the solvent use cutoff is exceeded, the coating mix preparation equipment must be ducted to a control system.

Semiannual reports would contain information on only those periods of operation during which the monitoring parameter boundaries designed to ensure the proper operation and maintenance of the emission controls that were established during the most recent performance test are exceeded. The following paragraphs describe these boundaries.

For affected coating operations with associated coating mix preparation equipment controlled by adsorbers, reports would be submitted for all 3-hour periods during which: (1) The average concentration of VOC in the carbon adsorber exhaust gases indicated by the continuous monitoring system of exhaust gas concentration is 20 percent greater than the baseline concentration (the average concentration monitored during the most recent performance test demonstrating compliance) or (2) the bed efficiency as determined by continuous inlet and outlet gas monitoring is less than 95 percent. For affected coating operations with associated coating mix prepration equipment controlled by a condenser, a report would be submitted for all 3-hour periods during which the average process exhaust gas temperature from the condenser is 5°C greater than the baseline temperature. For coating operations with associated coating mix preparation equipment controlled by thermal incinerators, a report would be submitted for all 3-hour periods of operation during which average combustion gas temperature is more than 28°C lower than the average during the most recent performance test. For coating operations with associated coating mix preparation equipment controlled by catalytic incinerators, a report would be submitted for any 3-hour period during which the average temperature immediately before the catalyst bed is more than 28°C lower than the average during the most recent performance test or when the average temperature gradient across the catalyst bed is less than 80 percent of that measured during the most recent performance test.

Any affected coating operation with a control device controlling VOC emissions from only that operation would be required to demonstrate compliance by a liquid material balance over each 1-month period. The owners or operators of such coating operations would be required to submit the following: (1) Semiannual reports stating that the coating operation was in compliance in each of the preceding 6 months and (2) quarterly reports of material balance data for all months of noncompliance. The data supplied in the quarterly report would consist of the 1-month volume of VOC applied, the 1-month volume of VOC recovered, and the percent emission reduction.

V. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed standards in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or

within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, DC (see **ADDRESSES** section to this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review (except for interagency review materials (Section 307(d)(7)(A)).

C. Clean Air Act Procedural Requirements

1. Administrator Listing—Section 111. As prescribed by section 111 of the Clean Air Act, as amended, establishment of standards of performance for the polymeric coating of supporting substrates was preceded by the Administrator's determination (40 CFR 60.16 44 FR 49222, dated August 21, 1979) that emissions from industrial surface coating of fabics contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

2. *Periodic Review—Section 111.* This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

3. *External Participation—Section 117.* In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. In addition, numerous meetings were held with industry representatives during development of the proposed standards. The Administrator will welcome comments on all aspects of the proposed regulation including economic and technological issues.

4. *Economic Impact Assessment—Section 317.* Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any NSPS promulgated under section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the BID.

D. Office of Management and Budget Reviews

1. *Paperwork Reduction Act.* The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA," as well as to EPA. The final rule will respond to any OMB or public comments on the information collection requirements.

There are no reporting requirements by other governmental agencies for the information required by these proposed standards which would result in overlapping requirements. In particular, there is no overlap with the reporting requirements of the Superfund program. The Superfund program was established in 1980 by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, Pub. L. 96–510) and authorizes the Federal government to respond directly to releases (or threatened releases) of hazardous substances and pollutants or contaminants to any media that may endanger public health or welfare. Under the notification and liability provisions of section 103 (see 48 FR 23552, May 25, 1983), CERCLA requires that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities immediately notify the National Response Center of the release (800–424–8802; in Washington, DC, metropolitan area 202–426–2675). However, air releases that qualify as Federally permitted releases, such as VOC emissions that are regulated under section 111 of the Clean Air Act, are not subject to the notification or liability provisions of CERCLA unless the air releases are in excess of the allowable NSPS emissions by an amount equal to or greater than the reportable quantity; in this case, persons in charge must report the excess air releases to the National Response Center. (Reporting under CERCLA does not excuse the persons in charge from any responsibility, including reporting, or liability under the NSPS program.)

2. *Executive Order 12291 Review.* Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed regulation is not major because it would result in none of the adverse economic effects set forth in section 1 of the Order as grounds for finding a regulation to be major. Assuming the most costly control device is installed on all new lines, the industry-wide annualized costs in the fifth year after the standards would go into effect would be $1.9 million, which is less than the $100 million established as the first criterion for a major regulation in the Order. No increase in retail price is expected as a result of the proposed standards; therefore, it would not be considered a "major increase in costs or prices" as specified in the second criterion in the Order. The economic analysis of the proposed standards' effect on the industry did not indicate any significant adverse effects on competition, investment, productivity, employment, innovation, or the ability of U.S. firms to compete with foreign firms (the third criterion in the Order).

This regulation was submitted to OMB for review as required by Executive Order 12291. Any written correspondence between OMB and EPA will be put into the docket.

E. Regulatory Flexibility Act Compliance

The Regulatory Flexibility Act (Pub. L. 96–354, September 1980) requires that the economic impact assessment determine whether the regulation is likely to have a significant impact on small businesses and whether a substantial number of small businesses will experience significant impacts. Although 60 percent of polymeric coating of supporting substrate companies or firms have 500 or fewer employees, many of them are subsidiaries of large corporations and, therefore, are not small businesses per se.

Furthermore, the economic impact of the NSPS with respect to firm size tends to be very small and, therefore, insignificant. In all cases, the capital costs of new firms, whether large or small, will increase because of the NSPS requirements; but the increase in capital cost of the pollution control equipment over baseline will be less than 17

percent of the total capital expenditure. In addition, the greatest increase in the annualized cost attributable to the NSPS is less than 4.4 percent of the estimated gross revenue for either small or large firms. Whereas the annualized control costs of small coating lines tend to be greater than those for the larger lines, plant or firm size is more likely to be related to the number and not the size of the lines. Therefore, many of the small plants or firms with a few large coating lines may actually have lower annualized control costs than some of the larger plants or firms.

In summary, the economic impact of the NSPS will tend to be neutral with respect to the size of the firm. Overall, the NSPS will have an insignificant impact on production costs or product prices. Rather than increasing production costs, the NSPS may actually result in lower production costs and product prices because of increased solvent recovery.

Therefore, pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule, if promulgated, will not have a significant economic impact on a substantial number of small business entities because the economic impact of the proposed rule is not significant.

List of Subjects in 40 CFR Part 60

Air pollution control, Incorporation by reference, Intergovernmental relations, Polymeric coating of supporting substrates, Reporting and recordkeeping requirements.

Dated: April 21, 1987.

Lee M. Thomas,

Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended as follows:

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

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

2. By adding a new Subpart VVV to read as follows:

Subpart VVV—Standards of Performance for Polymeric Coating of Supporting Substrates Facilities

Sec.

60.740 Applicability and designation of affected facility.
60.741 Definitions and symbols.
60.742 Standards for volatile organic compounds.
60.743 Compliance provisions.
60.744 Monitoring requirements.
60.745 Test methods and procedures.
60.746 Permission to use alternative means of emission limitation.
60.747 Reporting and recordkeeping requirements.
60.748 Delegation of authority.

Subpart VVV—Standards of Performance for Polymeric Coating of Supporting Substrates Facilities

§ 60.740 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each coating operation and all onsite coating mix preparation equipment that prepares coating for the coating operation.

(b) Any affected coating operation either by itself or with associated coating mix preparation equipment that uses less than 110 m^3 of solvent for polymeric coating of supporting substrates per 12-month period is subject only to the requirements of § 60.744(a), § 60.747(b), and § 60.747(c). If the amount of solvent used for polymeric coating of supporting substrates is 110 m^3 or greater per 12-month period, the facility is subject to all the requirements of this subpart. Once a facility has become subject to the requirements of this subpart, it will remain subject to those requirements regardless of changes in annual solvent utilization.

(c) Coating mix preparation equipment used to manufacture coatings at one plant and shipped to another plant for use in an affected facility (coating operation) or sold to another company for use in an affected facility (coating operation) will not be subject to the provisions of this subpart.

(d) This subpart applies to any affected facility for which construction, modification, or reconstruction begins after ——— (date of publication in the **Federal Register**).

§ 60.741 Definitions and symbols.

(a) All terms used in this subpart not defined below have the meaning given to them in the Act and in Subpart A of this part.

"Coating applicator" means any apparatus used to apply a coating to a continuous substrate.

"Coating mix preparation equipment" means all mills, mixers, holding tanks, and other equipment used in the preparation of the polymeric coating formulation.

"Coating line" means the coating operation(s) and coating mix preparation equipment that service the coating operation(s).

"Coating operation" means any coating applicator(s), flashoff area, and drying oven located between a substrate unwind station and a rewind station that coats a continuous web to produce a substrate with a polymeric coating.

"Common emission control device" means a control device controlling emissions from the coating operation as well as from another emission source within the facility.

"Cover" means, with respect to coating mix preparation equipment, a device that fits over the equipment opening to prevent VOC from escaping.

"Drying oven" means a chamber that uses heat to bake, cure, polymerize, or dry a surface coating.

"Flashoff area" means the portion of a coating operation between the coating applicator and the drying oven where solvent begins to evaporate from the coated substrate.

"Nominal 1-month period" means either a calendar month, 30-day month, accounting month, or similar monthly time period that is established prior to the performance test (i.e., in a statement submitted with notification of anticipated actual startup pursuant to 40 CFR 60.7(2)).

"Onsite coating mix preparation equipment" are those pieces of equipment located at the same plant as the affected facility (coating operation) they serve.

"Paper coating" means the coating of paper, plastic film, or metallic foil usually with a rod, knife, or rotogravure coater.

"Polymeric coating of supporting substrates" means a web coating process that applies elastomers, polymers, or prepolymers to a supporting web other than paper.

"Substrate" means the surface to which a coating is applied.

"Solvent used" means the amount of solvent delivered to the coating mix preparation equipment of the affected facility.

"Total enclosure" means a structure or building around the coater applicator/flashoff area or the entire coating operation for the purpose of confining and totally capturing VOC emissions for delivery to a control device.

"Vapor capture system" means any device or combination of devices designed to contain, collect, and route solvent vapors released from the coating line.

"VOC in the applied coating" means the product of Reference Method 24 VOC analyses and the total volume of coating fed to the coater.

"Web coating" means the coating of fabric, paper, plastic film, metallic foil, metal coil, or other products such as leather, cord, or yarn that are flexible enought to be unrolled from a large roll;

coated by blade, roll coating, dip coating, impregnation, or rotogravure as a continuous substrate; and, after drying, rerolled.

(b) The nomenclature used in this subpart has the following meaning:

"a" means the gas stream exiting the emission control device.

"b" means the gas stream entering the emission control device.

"C_{aj}" means the concentration of VOC (carbon equivalent) in each gas stream (j) exiting the emission control device, in parts per million by volume.

"C_{bi}" means the concentration of VOC (carbon equivalent) in the gas stream in each inlet (i) to the emission control device, in parts per million by volume.

"C_{di}" means the concentration of VOC (carbon equivalent) in each gas stream (i) entering the emission control device from the affected coating operation, in parts per million by volume.

"C_{fk}" means the concentration of VOC (carbon equivalent) in each uncontrolled gas stream (k) emitted directly to the atmosphere from the affected coating operation, in parts per million by volume.

"E" means the control device efficiency achieved for the duration of the emission test [expressed as a fraction].

"F" means the VOC emission capture efficiency of the vapor capture system achieved for the duration of the emission test [expressed as a fraction].

"M_{ci}" means the total mass (kg) of each coating (i) applied at an affected coating operation during a nominal 1-month period as determined from facility records.

"M_r" means the total mass (kg) of VOC recovered for a nominal 1-month period.

"Q_{aj}" means the volumetric flow rate of each gas stream (j) exiting the emission control device, in dry standard cubic meters per hour.

"Q_{bi}" means the volumetric flow rate of each gas stream in each inlet (i) to the emission control device, in dry standard cubic meters per hour.

"Q_{di}" means the volumetric flow rate of each gas stream (i) entering the emission control device from the affected coating operation, in dry standard cubic meters per hour.

"Q_{fk}" means the volumetric flow rate of each uncontrolled gas stream (k) emitted directly to the atmosphere from the affected coating operation, in dry standard cubic meters per hour.

"R" means the overall VOC emission reduction achieved for the duration of the emission test [in percent].

"RS_i" means the solvent retained in the substrate after oven drying for a given combination of coating and substrate.

"W_{oi}" means the weight fraction of VOC in each coating (i) applied at an affected coating operation during a nominal 1-month period as determined by Reference Method 24.

§ 60.742 Standards for volatile organic compounds.

(a) Each owner or operator of any affected facility which is subject to the requirements of this subpart shall comply with the emissions limitations set forth in this section on and after the date on which the initial performance test, required by § 60.8, is completed, but not later than 60 days after achieving the maximum production rate at which the affected facility will be operated, or 180 days after initial startup, whichever date comes first. Each owner or operator shall:

(1) Reduce VOC emissions to the atmosphere by at least 93 percent from each coating operation; and

(2) Control emissions from onsite coating mix preparation equipment servicing coating lines using at least 150 m^3 of solvent/year by capturing and venting all VOC emissions to a 95 percent efficient control device; or

(3) Control emissions from onsite coating mix preparation equipment servicing coating lines using at least 110 m^3 of solvent per year but less than 150 m^3 of solvent per year by installing and using a vapor-tight cover with a conservation vent set at 17.2 kPa on each piece of affected coating mix preparation equipment at all times except when adding ingredients, withdrawing samples, transferring the contents, or making visual inspection when such activities cannot be carried out with covers in place. When possible, such activities should be carried out through ports of the minimum practicable size.

§ 60.743 Compliance provisions.

(a) To determine compliance with § 60.742(a)(1) when emissions from only the affected coating operation are controlled by a solvent recovery device, each owner or operator of the affected coating operation shall perform a liquid-liquid VOC material balance over each and every nominal 1-month period. The amount of liquid VOC applied and recovered shall be determined as discussed in paragraph (3) of this section. The overall VOC emission reduction is calculated using the following equation:

$$R = \frac{M_r}{\sum_{i=1}^{n} [W_{oi} M_{ci} - RS_i]} \times 100 \qquad \text{(Equation 1)}$$

If the R value is equal to or greater than 93 percent, compliance with § 60.742(a)(1) is demonstrated.

(1) The value of RS_i is zero, unless the owner or operator submits the following information to the Administrator for approval of a measured value of RS_i that is greater than zero:

(i) Measurement techniques;

(ii) Documentation that the measured value of RS_i exceeds zero; and

(iii) Documentation of customer specifications requiring higher values; or

(iv) Documentation that the inherent properties of the product require higher levels and that such properties cannot be achieved by other means.

(2) The measurement techniques shall be submitted to the Administrator for approval with the notification of anticipated startup required under § 60.7(a)(2).

(3) Each owner or operator demonstrating compliance by the test method described in paragraph (a) of this section shall:

(i) Measure and maintain records on the amount of coating applied at the coating applicator;

(ii) Maintain a record of the results of the reference test method specified in § 60.745(a) for determining the VOC content of all coatings used;

(iii) Install, calibrate, maintain, and operate a monitoring device that indicates the cumulative amount of VOC recovered by the device over each nominal 1-month period. The monitoring device shall be certified by the manufacturer to be accurate within 2.0 percent;

(iv) Maintain a record of the amount of VOC recovered; and

(v) Calculate and maintain records on the percent VOC recovered for each nominal 1-month period.

(b) To determine compliance with § 60.742(a)(1) when a common emission control device is used to control emissions from an existing coating operation (or operations) as well as from a coating operation (or operations) subject to the standard, from more than one affected facility, from more than one emission source within an affected facility, or when the emissions from the affected coating operation with associated coating mix preparation equipment are controlled by an incinerator, each owner or operator of the affected coating operation shall perform a gaseous emissions test using the following procedures:

(1) Construct the overall VOC emission reduction system so that all gaseous volumetric flow rates and total VOC emissions can be accurately determined by the applicable test methods and procedures specified in § 60.745;

(2) Determine capture efficiency from the coating operation by capturing and venting all VOC emissions from the operation through stacks suitable for measurement. During a performance test, the owner or operator of an affected coating operation located in an area with other sources of VOC shall isolate the coating operation emissions from all other sources of VOC. If a permanent total enclosure around the affected facility exists prior to the test and the Administrator is satisfied that the enclosure is totally capturing VOC emissions from the coating operation, no additional total enclosure will be required. If a permanent enclosure does not already exist, one of the following methods must be used:

(i) Build a permanent enclosure around the affected coating operation; or

(ii) Build a temporary enclosure around the affected coating operation and approximate the ventilation conditions expected to be in effect when the affected facility is not enclosed. (The number of air changes per hour in the vicinity of the coating operation shall be duplicated in the enclosure); or

(iii) Shut down all other sources of VOC and continue to exhaust fugitive emissions from the effective coating operation through any building ventilation system and other room exhausts such as drying ovens. All ventilation air must be vented through stacks suitable for testing.

(3) Determine the efficiency of the control device by the following equation:

$$E = \frac{\sum_{i=1}^{n} Q_{bi}C_{bi} - \sum_{j=1}^{n} Q_{aj}C_{aj}}{\sum_{i=1}^{n} Q_{bi}C_{bi}} \qquad \text{(Equation 2)}$$

Determine the efficiency of the vapor capture system by the following equation:

$$F = \frac{\sum_{i=1}^{n} Q_{di}C_{di}}{\sum_{i=1}^{n} Q_{bi}C_{bi} + \sum_{k=1}^{p} Q_{fk}C_{fk}} \qquad \text{(Equation 3)}$$

(5) For each affected coating operation, compliance with § 60.742(a)(1) is demonstrated if the product of (E) x (F) is equal to or greater than 0.93.

(c) Startups and shutdowns are normal operation for this source category. Emissions from these operations are to be included when determining if the standard specified in § 60.742(a)(1) is being attained.

(d) An alternative method of demonstrating compliance with § 60.742(a)(1) is the installation of a total enclosure approved by the Administrator on the application/flashoff area and the ventilation of all VOC emissions from the total enclosure and the drying oven to a control device that is at least 95 percent efficient. If this alternative is selected, the compliance test methods described in § 60.743 (a) and (b) are not required. Instead, each owner or operator of an affected coating operation shall determine the control device efficiency using Equation (2) and the test methods and procedures specified in § 60.745. If the value of E is equal to or greater than 0.95, compliance is demonstrated.

(e) To determine compliance with § 60.742(a)(2), each owner or operator of affected coating mix preparation equipment shall demonstrate via an inspection or other means acceptable to the Administrator that all VOC emissions are captured and vented to the control device. The control device efficiency is determined using Equation (2) and the test methods and procedures specified in § 60.745. If the value of E is equal to or greater than 0.95, compliance is demonstrated.

(f) To demonstrate compliance with § 60.742(a)(3), each owner or operator of affected coating mix preparation equipment shall demonstrate upon inspection that both:

(1) Covers satisfying the requirements of § 60.742(a)(3) have been installed and are being used properly; and

(2) Procedures detailing the proper use of covers have been posted in all areas where affected coating mix preparation equipment is used.

§ 60.744 Monitoring requirements.

(a) Each owner or operator of an affected coating operation, either by itself or with associated mix equipment, utilizing less than 110 m^3 of solvent per year and not operating a control device and each owner or operator of an affected facility subject to the provisions specified in § 60.742(a)(3) shall:

Make semiannual estimates of the projected annual amount of solvent to be utilized for the manufacture of polymeric coated substrate at the affected coating operation in that year and maintain records of these estimates; and

(2) Maintain records of actual solvent use.

(b) Each owner or operator of an affected coating operation with associated mix equipment controlled by a carbon adsorber and demonstrating

compliance by the test methods described in § 60.743(b) shall install, calibrate, maintain, and operate a monitoring device that continuously indicates and records the VOC concentration of the control device outlet gas stream or inlet and outlet gas stream and shall comply with the following requirements:

(1) The continuous monitoring device shall be installed in locations that are representative of the VOC concentration in the outlet (and, if applicable, inlet) vents, at least two equivalent stack diameters from the outlet (and, if applicable, inlet) points, and protected from any interferences due to wind, weather, or other processes; and

(2) The VOC concentration in parts per million by volume in the outlet (and, if applicable, inlet) vents shall be continuously measured and recorded during the performance tests.

(c) Each owner or operator of an affected coating operation with associated coating mix preparation equipment controlled by a condensation system and demonstrating compliance by the test methods described in § 60.743(b) shall install, calibrate, maintain, and operate a monitoring device that continuously indicates and records the temperature of the condenser exhaust stream.

(d) Each owner or operator of an affected coating operation with associated mix equipment controlled by a thermal incinerator shall install, calibrate, maintain, and operate a monitoring device that continuously indicates and records the combustion temperature of the incinerator. The monitoring device shall have an accuracy within ±2.5°C.

(e) Each owner or operator of an affected coating operation with associated coating mix preparation equipment controlled by a catalytic incinerator shall install, calibrate, maintain, and operate a monitoring device that continuously indicates and records the gas temperature both upstream and downstream of the catalyst bed. The monitoring device shall have an accuracy within ±2.5°C.

(f) Each owner or operator of an affected coating operation with associated coating mix preparation equipment that demonstrates compliance with a gaseous material balance shall submit a monitoring plan to the Administrator for approval that establishes a baseline value for capture efficiency during the performance test and identifies the method for monitoring capture efficiency. This plan shall be submitted with the notification of anticipated startup required under § 60.7(a)(2). The owner or operator shall install, calibrate, maintain, and operate a monitoring device that continuously indicates that the capture system is operating at the same level of efficiency demonstrated during the performance test.

(g) Each owner or operator of an affected coating operation with associated coating mix preparation equipment that uses the equipment alternative described in § 60.743(d) shall install, calibrate, maintain, and operate monitoring devices that continuously indicate and record that:

(1) The total enclosure that has been approved by the Administrator is operating properly. Examples of such devices include fan amperage meters and pressure sensors to measure absolute pressure in the enclosure, and flow meters in ducts; and

(2) The control device is operating as specified in § 60.744 (b) through (e).

(h) The owner or operator of an affected coating operation with associated mix equipment shall record time periods of coating operations when an emission control device is not in use.

(i) Records of the measurements required in §§ 60.743 and 60.744 must be retained for at least 2 years following the date of the measurements.

§ 60.745 Test methods and procedures.

Reference Methods in Appendix A of this part, except as provided under § 60.8(b), shall be used to determine compliance as follows:

(a) Method 24 is used to determine the VOC content in coatings. If it is demonstrated to the satisfaction of the Administrator that plant coating formulation data are equivalent to Method 24 results, formulation data may be used. In the event of any inconsistency between a Method 24 test and a facility's formulation data, the Method 24 test will govern. For Method 24, the coating sample must be a 1-liter sample taken into a 1-liter container at a point where the sample will be representative of the coating applied to the substrate;

(b) Method 25A is used to determine VOC concentration. The calibration gas shall be propane. This method shall consist of three test runs, each lasting a minimum of 30 minutes;

(c) Method 1 or 1A is used for sample and velocity traverses;

(d) Method 2, 2A, 2C, or 2D is used for velocity and volumetric flow rates;

(e) Method 3 is used for gas analysis;

(f) Method 4 is used for stack gas moisture;

(g) Methods 2, 2A, 2C, 2D, 3, and 4 shall be performed, as applicable, at least twice during each test period.

§ 60.746 Permission to use alternative means of emission limitation.

(a) If, in the Administrator's judgment, an alternative means of emissions limitation will achieve a reduction in emissions of VOC from any emission point subject to § 60.742(a)(2) at least equivalent to that required by § 60.742(a)(2), the Administrator will publish in the **Federal Register** a notice permitting the use of the alternative means. The Administrator may condition permission on requirements that may be necessary to ensure operation and maintenance to achieve the same emission reduction as specified in § 60.742(a)(2).

(b) Any notice under paragraph (a) of this section shall be published only after public notice and an opportunity for a public hearing.

(c) Any person seeking permission under this section shall submit either results from an emission test that accurately collects and measures all VOC emissions from a given control device or an engineering evaluation that accurately determines such emissions.

§ 60.747 Reporting and recordkeeping requirements.

(a) For all affected facilities subject to compliance with § 60.742, the performance and compliance test data and results shall be submitted to the Administrator as specified in § 60.8(a) of Subpart A of this part.

(b) Each owner or operator of an affected facility subject to the provision specified in § 60.742(a)(3) and claiming to use less than 150 m^3 of solvent in the first year and each owner or operator of an affected facility claiming to use less than 110 m^3 of solvent in the first year of operations shall submit to the Administrator, with the notification of projected startup, a material flow chart indicating projected solvent use. The owner or operator shall also submit actual solvent use records at the end of the initial year.

(c) Each owner or operator of an affected facility subject to the provisions of § 60.742(a)(3) and initially using less than 150 m^3 of solvent per year and each owner or operator of an affected coating operation with associated coating mix preparation equipment initially using less than 110 m^3 of solvent per year shall:

(1) Record semiannual estimates of projected solvent use; and

(2) Report the first semiannual estimate in which projected annual solvent use exceeds 150 m^3 or 110 m^3, respectively.

(d) Each owner or operator of an affected coating operations

demonstrating compliance by the methods described in § 60.743(b) or § 60.743(d) shall submit semiannual reports to the Administrator documenting the following:

(1) All 3-hour periods (during actual coating operations) during which the average value of the exhaust vent VOC concentration is more than 20 percent greater than the average value measured during the most recent performance test for those affected facilities monitoring carbon adsorber outlet VOC concentration;

(2) All 3-hour periods (during actual coating operations) during which the average carbon bed efficiency is less than 95 percent for those affected facilities monitoring both carbon absorber inlet and outlet VOC concentration;

(3) All 3-hour periods (during actual coating operations) during which the average exhaust temperature is 5°C above the average temperature of the device during the most recent performance test for those affected facilities monitoring condenser exhaust gas temperature;

(4) All 3-hour periods (during actual coating operations) during which the average gas temperature of the device is more than 28°C below the average temperature of the device during the most recent performance test for those affected facilities monitoring thermal incinerator combustion gas temperature;

(5) All 3-hour periods (during actual coating operations) during which the average gas temperature of the device immediately before the catalyst bed is more than 28°C below the average gas temperature of the device during the most recent performance test, and all 3-hour periods (during actual coating operations) during which the average gas temperature difference across the catalyst bed is less than 80 percent of the average gas temperature difference of the device during the most recent performance test for those affected facilities monitoring catalytic incinerator catalyst bed temperature;

(6) Each 3-hour period during which the total enclosure or capture system monitor readings vary by 5 percent or more from the baseline value approved by the Administrator and established during the most recent performance test complying with the standard for each affected facility operating a total enclosure.

(e) Each owner or operator of an affected coating operation demonstrating compliance by the test methods described in § 60.743(a) shall submit the following:

(1) For months of compliance, semiannual reports to the Administrator stating that the affected coating operation was in compliance for each 1-month period; and

(2) For months of noncompliance, quarterly reports to the Administrator documenting the 1-month amount of VOC contained in the coatings, the 1-month amount of VOC recovered, and the percent emission reduction for each month.

(f) The reports required under paragraphs (b), (c), (d), and (e) of this section, shall be postmarked within 30 days of the end of the reporting period.

(g) The requirements of this section remain in force until and unless EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In this event, affected sources within the State will be relieved of the obligation to comply with this subsection, provided that they comply with the requirements established by the State.

§ 60.748 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under section 111(c) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) Authorities which will not be delegated to States:

60.743(a)(1)
60.743(a)(2)
60.746

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federal register

Thursday
April 30, 1987

Part VIII

Department of the Interior

Minerals Management Service

Request for Interest; Norton Basin, Lease Sale 120; Notice

DEPARTMENT OF THE INTERIOR

Minerals Management Service

[Lease Sale 120]

Outer Continental Shelf Operations; Oil & Gas Lease Sales Request for Interest; Norton Basin

Purpose

The Norton Basin proposed Outer Continental Shelf (OCS) oil and gas lease sale has been designated as a Frontier Exploration Sale pursuant to the Proposed Final Program. Sale 120 is being reviewed by the Secretary of the Interior to determine whether the OCS presale process should be initiated for this sale. The oil and gas industry is asked to assist in this process by providing up-to-date information on its interest in leasing and exploring within the Norton Basin.

If a decision is made to begin the OCS presale process for this sale, a Call for information and Nominations would be issued in August 1987 with a sale proposed for December 1989. If interest is determined to be insufficient to justify proceeding with the presale process, the sale can be canceled, or delayed and a Request for Interest reissued on an annual or less frequent basis unit interest is determined to be sufficient to hold the sale or until the sale is canceled.

Use of Information from Request

The responses will assist the Secretary of the Interior to determine if the presale process for the proposal should be started, canceled, or deferred for consideration in a future 5-year schedule. This approach is designed to add flexibility to the program by providing for the reasonable possibility that changes in geologic data or economic or other conditions could create bidding interest in the future in areas which now appear unattractive. For example, a substantial oil price increase (such as might result from an oil supply disruption), if anticipated to be relatively long term, could make an area now unattractive to potential bidders one which could be of interest to them. Other information or interest would include new geophysical data, new geological data, new interpretations of existing data, and new estimates of costs of production. By receiving information on industry interest prior to the issuance of the Call, the Federal Government and other parties can avoid unnecessary expenditures on the lengthy and costly presale process.

The presale process includes the following steps: Call for Information and Nominations and Notice of Intent to Prepare an Environmental Impact Statement (EIS), Area Identification, draft EIS, Public Hearings, final EIS, proposed Notice of Sale, Governor's Comments, and final Notice of Sale. For Alaska sales, the entire process takes just over 2 years.

Description of Area

In general, the Norton Basin planning area extends west from the juncture of 65°35' N latitude at 168°15' W longitude to the U.S.-Russia Convention Line, thence generally southwest along that line to approximately 63° N latitude at 175° W longitude, thence east to the territorial sea thence along the territorial sea to the point of origin. The planning area includes approximately 4,741 blocks covering 25 million acres.

Large portions of the area were requested for deferral by the State of Alaska and the signatories to the Institute for Resource Management (IRM) Bering Sea Proposal. A portion of the area requested for deferral has been deferred pursuant to the Proposed Final 5-Year Program. This is shown as a subarea deferral on the attached map. Areas requested by the State and the IRM that were not adopted for deferral at this time have been highlighted for special presale consideration. Highlighting subareas for special presale consideration means special mention of such subareas in the Call for Information and Nominations and consideration of them as potential deferral alternatives in the EIS scoping process.

The area open for comment at this time consists of 2,338 blocks (approximately 12 million acres) and is outlined on the attached map.

Previous Sale Activities

There has been on lease sale in this area. Sale 57, held in March 1983, resulted in the issuance of 59 leases. Since that time, 29 leases have been relinquished. Six wells have been drilled, plugged, and abandoned. A suspension of operations order has been in effect since January 8, 1986. The suspension was issued as a result of a preliminary injunction imposed by the 9th Circuit Court of Appeals prohibiting the Department of the Interior from authorizing any activity in the area. On March 24, 1987, the U.S. Supreme Court ruled that the Alaska National Interest Lands Conservation Act does not apply to the OCS and that the preliminary injunction was improperly imposed. After further proceedings in the lower courts, the Minerals Management Service will terminate the suspension of operations.

Sale 100 was the last lease sale scheduled in the Norton Basin. This sale was to be held in March 1986 but was ultimately canceled. The Call for Information for proposed Lease Sale 100, Norton Basin, was published in the **Federal Register** at 49 FR 8084 on March 5, 1984. The Call area covered approximately 19.2 million acres. Six companies responded indicating some interest in the entire Call area. The area identified for further study in an EIS was announced in June 1984 and covered 9.8 million acres. A draft EIS was released in March 1985, followed in December 1985 with the release of the final EIS. On April 11, 1986, Sale 100 was canceled due to lack of industry interest.

Instructions on Request for Interest

Information regarding leasing and exploring in the Norton Basin planning area may be provided by mail, telephone, or, alternatively, by informal meeting with the Regional Director or a designated representative. General or detailed information may be submitted. Specific responses are requested on the advisability of selecting one of the following options for the planning area: proceed with the OCS Presale process; cancel the OCS presale process; or delay the sale process for no less than 1 year, at which time another Request for Interest would be published.

In order to be included in review process, information must be submitted no later than 45 days following publication of this document in the **Federal Register.** Receipt of the information will be facilitated if the envelope is marked "Request for Interest on Proposed Lease Sale 120, Norton Basin."

Letters should be addressed to the Regional Supervisor for Leasing and Environment, Alaska Region, Minerals Management Service, 949 East 36th Avenue, Room 110, Anchorage, Alaska 99508–4302. Telephone inquiries may be made to Tom Warren at (907) 261–4691 (Alaska) or to Delores Chacon (202) 343–5121 (Washington, DC). A copy of the response should be sent to the Chief, Offshore Leasing Management Division, Department of the Interior, Minerals Management Service, Room 4230, Washington, DC 20240. Hand deliveries to the headquarters office may be made at 18th and C streets, NW., Room 2523, Washington, DC.

Dated: Aprill 27, 1987.

Approved.

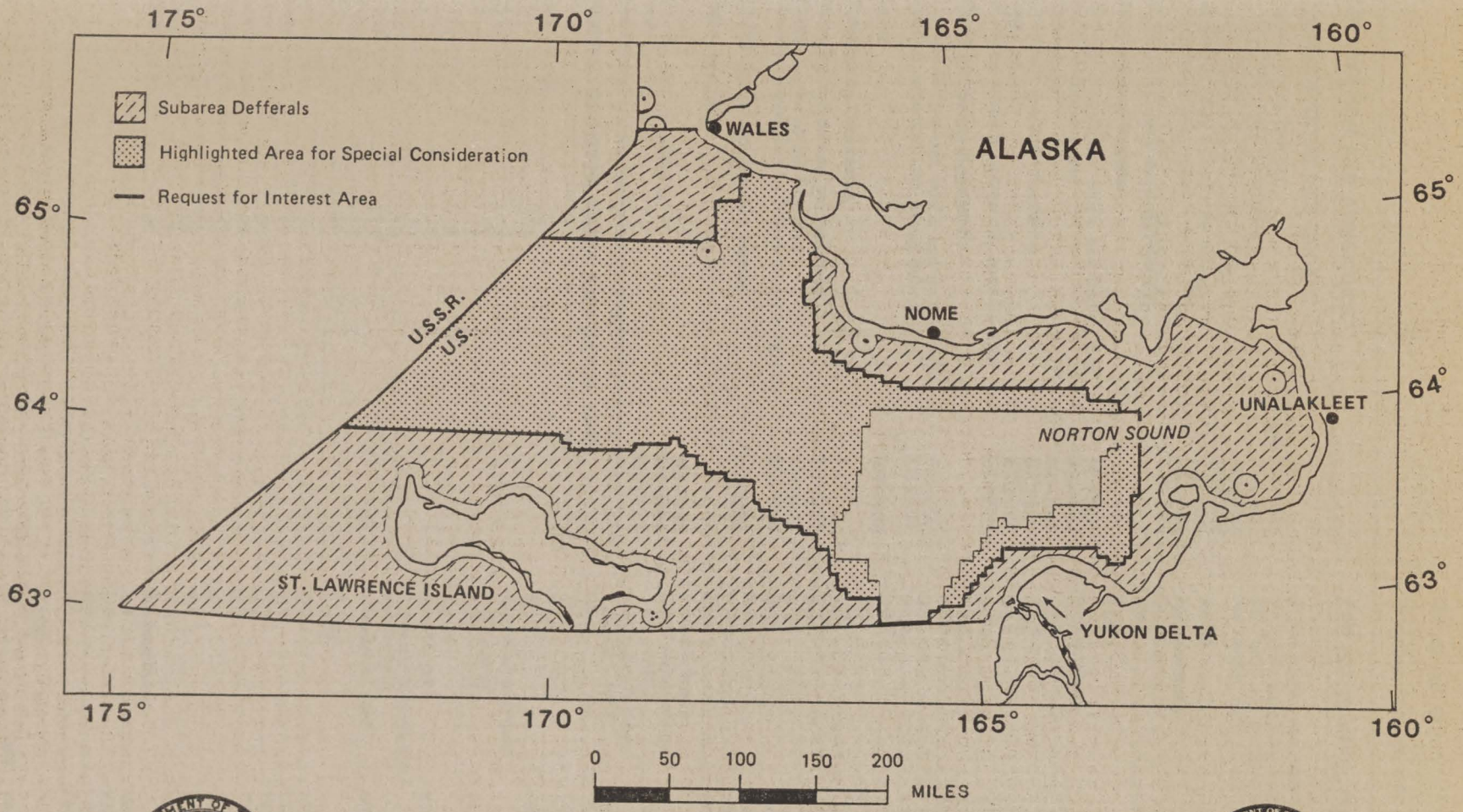
Wm. D. Bettenberg,

Director, Minerals Management Service

J. Steven Griles,

Assistant Secretary—Land and Minerals Management.

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U.S. DEPARTMENT OF THE INTERIOR

MINERALS MANAGEMENT SERVICE

ALASKA OCS REGION

NORTON BASIN PLANNING AREA

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