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Thursday
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Briefings on How To Use the Federal Register—
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

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WHEN: July 8, at 9 a.m.
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WHEN: July 15, at 9 a.m.
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Boston, MA.
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. 86F-0060]

Food Additives Permitted in Feed and Drinking Water of Animals; Selenium; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule that amended the food additive regulations to provide for increased selenium use levels and consumption rates in certain feed products for the major food-producing animals (52 FR 10887; April 6, 1987). One of the final rule's effects was to increase the maximum use level of selenium in complete feeds for chickens, swine, turkeys, sheep, cattle, and ducks from 0.1 part per million (ppm) to 0.3 ppm. However, the rule inadvertently neglected to make the corresponding proportional increase (i.e., 3X) in the maximum concentration of selenium allowed per pound of the complete feed premix. This document corrects that oversight by making the 3X increase of selenium in the complete feed premix.

FOR FURTHER INFORMATION CONTACT: William D. Price, Center for Veterinary Medicine (HFV-221), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4438.

SUPPLEMENTARY INFORMATION: In FR Doc. 87-7505 appearing on page 10887 in the issue of Monday, April 6, 1987, page 10888, § 573.920 *Selenium*, paragraph (c)(1) is corrected by revising "90.8 milligrams" to read "272.4 milligrams."

Dated: May 27, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-12658 Filed 6-3-87; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

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

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS HELENA (SSN-725) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: May 20, 1987.

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

SUPPLEMENTARY INFORMATION:

Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS HELENA (SSN-725) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c), pertaining to the arc of visibility of the sternlight; Annex I, section 2(a)(i), pertaining to the height of the masthead light; Annex I, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex I, section 3(b), pertaining to the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessel. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS HELENA (SSN-725) is a member of the SSN 688 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS HELENA (SSN-725).

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

List of subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

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

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

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

Vessel	Number	Distance in meters of forward masthead light below minimum required height, § 2(a)(ii), annex I
USS HELENA	SSN-725	3.5

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

Vessel	Number	Masthead lights, arc of visibility; Rule 21(a)	Side lights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I	Stern light distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), Annex I	Anchor lights relationship of aft light to forward light in meters; § 2(k), Annex I
USS HELENA	SSN-725			207*	4.2*	6.2	3.5	1.7 below

Dated: May 20, 1987.

James H. Webb, Jr.

Secretary of the Navy.

[FR Doc. 87-12682 Filed 6-3-87; 8:45 am]

BILLING CODE 3810-01-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS SPIEGEL GROVE

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS SPIEGEL GROVE (LSD-32) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval dock landing ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: May 20, 1987.

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

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

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

List of subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

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

Authority: 33 U.S.C. 1605.

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

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstrucions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim, Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained.
USS SPIEGEL GROVE	LSD-32							×	65

Approved: May 20, 1987.

James H. Webb, Jr.,

Secretary of the Navy.

[FR Doc. 87-12683 Filed 6-3-87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CCGD12 87-03]

Special Local Regulations; Budweiser Western States Championships

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are adopted for the annual Budweiser Western States Championships on the San Joaquin River, Stockton Channel. The purpose is to control traffic in designated areas of the Stockton Deep Water Channel during the event to provide for safety of life on these navigable waters.

EFFECTIVE DATE: These regulations become effective on 27 June 1987, and thereafter annually on the final weekend in June.

FOR FURTHER INFORMATION CONTACT: LT Jay Ellis, c/o Commander (bt), Twelfth Coast Guard District, Coast Guard Island, Alameda, CA 94501-5100, (415) 437-3309 or (FTS) 536-3309.

SUPPLEMENTARY INFORMATION: On 12 March 1987, the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (52 FR 7623). Interested persons were requested to submit comments and no comments were received.

Drafting Information: The draftsmen of this notice are LT Jay Ellis, project officer, Chief Boating Technical Branch, Twelfth Coast Guard District and LCDR Peter Mitchell, project attorney, Twelfth Coast Guard District Legal Office.

Discussion: No comments were received, and no changes were made to the proposed regulations as originally published.

Economic Assessment and Certification: These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulations and non-significant under 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 not necessary. It involves negligible cost and will not have significant effect on recreational vessels, commercial vessels or other marine interests.

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.1203 is added to read as follows:

§ 100.1203 San Joaquin River—Budweiser Western States Championships.

(a) *Effective Dates:* These regulations are effective from 1000 to 1800 local time on 27 and 28 June, 1987, and thereafter annually on the final weekend of June as published in the *Local Notice to Mariners.*

(b) *Regulated Area:* Budweiser Western States Championships Race Course Area: That portion of the Stockton Deep Water Channel from Stockton Channel Light 43 (Light List Number 7150) east (upstream) to Stockton Channel Light 48 (Light List Number 7165), a distance of approximately 1.25 statute miles.

(c) *Closure:* The regulated area will be closed to all vessel traffic during the Budweiser Western States Championships' trials, races, and heats from 1000 to 1800 on each day of the event. Transit through the regulated area will be permitted at approximately 1130, 1315, 1500, and 1645 local time on Saturday, and at approximately 1100, 1215, 1430, and 1545 on Sunday, for a minimum of fifteen (15) minutes each time to allow for the safe transit of non-participant vessels through the area. The regulated area may be opened during published closure times when there are no events in progress and it is deemed safe by the Patrol Commander.

(d) *Regulations:* (1) All vessels not officially involved with the Budweiser Western States Championships will remain outside of the regulated area during periods of closure unless permission to enter the area is received from a patrol vessel.

(2) No vessel shall anchor or drift in the regulated area.

(3) All vessels not officially involved with the Budweiser Western States Championships shall proceed in a safe and prudent manner directly through the regulated area when it is open to navigation.

(4) All vessels in the vicinity of the regulated area shall comply with the instructions of the U.S. Coast Guard and local enforcement patrol personnel.

Dated: May 19, 1987.

William P. Leahy, Jr.,

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

[FR Doc. 87-12738 Filed 6-3-87; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2921-7]

Standards of Performance for New Stationary Sources; Quality Assurance Requirements for Gaseous Continuous Emission Monitoring Systems Used for Compliance Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Addition of Appendix F, Procedure 1—Quality Assurance Requirements for Gaseous Continuous Emission Monitoring Systems (CEMS's) Used for Compliance Determination was proposed in the Federal Register on March 14, 1984 (49 FR 9676). This action promulgates the addition of Appendix F, Procedure 1, that will be applicable for evaluating effectiveness of quality control (QC) and quality assurance (QA) procedures and the quality of data produced by any CEMS used to demonstrate compliance with 40 CFR Part 60 emission regulations on a continuous basis. Procedure 1 applies to steam generating units subject to 4 CFR Part 60, Subpart Da. The intended effect of this regulation is to require sources that are required to use CEMS's for continuous compliance determination to evaluate CEMS data quality and report results of quarterly accuracy determinations and calibration drift (CD) tests with the required emission reports. Procedure 1 defines the test procedures and criteria for acceptable data quality.

EFFECTIVE DATE: June 4, 1987.

Under section 307(b)(1) of the Clean Air Act, judicial review of these additions to 40 CFR Part 60 is available *only* by the filing of a petition for review in the U.S. Courts of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Summary of Comments and Responses.* The summary of comments and responses for the proposed addition of Appendix F, Procedure 1, 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 "Appendix F—Quality Assurance Procedures, Procedure 1—Quality Assurance Requirements for Gaseous Continuous Emission Monitoring Systems Used for Compliance Determination (Proposed March 14, 1984, 49 FR 09676)—Summary of Comments and Responses, EPA-450/_____." The document contains (1) a summary of the changes made to Procedure 1 since proposal and (2) a summary of all the public comments made on the proposed addition and the Agency's response to the comments.

Quality Assurance Guidelines: A document entitled "Calculation and Interpretation of Accuracy for Continuous Emission Monitoring Systems" is available from the U.S. EPA, Office of Research and Development Publications, 26 West St. Clair Street, Cincinnati, Ohio 45268. It is Section 3.0.7 of the Quality Assurance Handbook for Air Pollution Measurement Systems, Volume III, Stationary Source Specific Methods, EPA-600/4-77-0276. The

purpose of this document is to provide operators and reviewers of CEMS's with guidelines for evaluating results of CEMS relative accuracy tests and audits.

Docket. A docket, number A–80–29, containing information considered by the Agency in the development of the additions is available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday, at EPA's Central Docket Section (LE–131), West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Darryl J. von Lehmden, Quality Assurance Division, Environmental Monitoring Systems Laboratory (MD–77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–2415; or Peter R. Westlin, Emission Standards and Engineering Division, (MD–19), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–2237.

SUPPLEMENTARY INFORMATION:

I. Public Participation

The addition of Appendix F, Procedure 1, was proposed in the **Federal Register** on March 14, 1984 (49 FR 9676). Public comments were solicited at the time of proposal. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed procedures, a public hearing was scheduled for April 9, 1984, beginning at 9:00 a.m. However, the hearing was not held because no one requested to speak. The public comment period was from March 14, 1984, to May 14, 1984, and was later extended to July 13, 1984 (49 FR 24151).

Thirty-nine comment letters concerning the issues relative to the proposed procedures were received. The comments have been carefully considered; and, where determined to be appropriate by the Agency, changes have been made in the proposed addition.

II. Significant Comments and Changes to the Proposed Appendix F, Procedure 1

Comments on the proposed addition of Appendix F, Procedure 1, were received from industry, Federal agencies, State air pollution control agencies, trade associations, and equipment manufacturers. A detailed discussion of these comments and responses can be found in the document described in the **ADDRESSES** section of the preamble. The summary of comments and responses are summarized in this preamble. Most of the comment letters contained multiple comments. The comments have been divided into categories cited below.

Applicability

Several commenters were concerned that Procedure 1 would become applicable to Subpart D sources which in turn would have to undertake significant changes to CEM's installed under less stringent regulations. The commenters suggested that the applicability of appendix F be limited to CEMS's installed after the promulgation of the regulation. The Agency has determined that QA procedures are necessary when CEMS's are used for compliance determinations. Revisions to Subpart D were proposed on October 21, 1983 (48 FR 48960), and the proposal contained continuous compliance provisions. However, the burden of any CEMS changes required because of the application of Procedure 1 will be evaluated when and if revisions to Subpart D are promulgated.

Two commenters stated that 6 months would be insufficient time to incorporate the data reduction procedures, write the QC procedures, and hire and train additional personnel needed to comply with the requirements in Procedure 1. The Agency revised Procedure 1 as proposed to eliminate the precision determination that would have required considerable revision of existing computer operated systems. It is the opinion of the Agency that, without the precision determination provisions, 6 months is sufficient time to prepare to comply with Procedure 1. The proposed revisions to Subpart D included a provision to allow affected sources 1 full year to develop CEMS's before having to comply with the revised regulations.

Several commenters expressed concerns about the applicability of continuous compliance regulations and the use of CEMS's for compliance determinations. The determination that a CEMS is an appropriate compliance tool for new source performance standards was not within the scope of the procedure 1 proposal. Such a determination was made with respect to Subpart Da in that rulemaking and is a subject of the pending Subpart D rulemaking. Procedure 1 provides a basis for evaluating CEMS data that are used for compliance determinations.

Quality Control Requirements

Three commenters suggested that the criteria list in the QC section be expanded to include several site-specific factors. The Agency believes that the list in Procedure 1 is as complete as reasonably possible in a general regulation. The CEMS operator is encouraged to develop a quality control list specifically suited to the situation.

One commenter stated that the rewriting of the QC procedures following successive audit failures will not improve the performance of a poorly designed CEMS. The Agency recognizes that the design and application of a CEMS are important factors in the successful operation of the CEMS. Replacement of an inadequate CEMS may be the only appropriate action available after continued poor operation and is an action that should be considered in developing the QC plan.

Assessment of Data Precision

Many commenters stated that assignment of cylinder gas or gas cell concentration values using CEMS responses should not be allowed. The commenters suggested using reference methods for this determination. The Agency notes that the cylinder gas or gas cells are used in this case to measure CEMS response drift. For this purpose, it is not necessary to know the input values with absolute accuracy, but only that the value is stable.

Many commenters noted that present regulations require daily zero and span CD check and adjustment and that additional precision determinations were unnecessary. Reporting requirements for these precision assessments were burdensome, as well. The Agency agrees that the precision calculation and rerporting are unnecessary for QA and has removed the precision section from Procedure 1. The CD determination procedure has been expanded to include the zero (or low-level) value as well as the upper-level value.

Zero and Upper-Level Calibration Drift

Three commenters stated that it would be appropriate to declare a CEMS to be out-of-control when drift exceeded twice the Appendix B specifications on any day, rather than only after 5 successive days. The Agency's experience is that application of this lower limit over an extended period of time may lead to excessive adjustment frequency and CEMS instability. A single drift measurement in excess of the lower limit could be a result of a statistical aberration, a dirty window which could be easily cleaned, or a nearly empty gas cylinder, none of which would be cause for declaring the CEMS out-of-control.

Many commenters stated that the requirement to conduct a relative accuracy audit (RAA) following an out-

of-control caused by excessive drift period is excessive. The Agency agrees with this comment and revised the proposal to include the determination of the end of the out-of-control period that is a result of excessive drift by demonstrating that the CEMS is operating within drift specifications.

Several commenters noted that this section and other sections of Procedure 1 required that source operators use alternate methods of obtaining emissions data when the CEMS is out-of-control. This requirement in Procedure 1 could lead to significant expenditures for alternate monitoring. The Agency has clarified the language from the proposal to note that Procedure 1 defines the criteria which determine when a CEMS is out-of-control. Under such conditions, the CEMS data are not valid for meeting the minimum data availability requirements found in continuous compliance regulations. The applicable regulations specify the minimum data availability requirements and these requirements, not Appendix F, dictate the necessity for alternate emission monitoring when the CEMS is out-of-control. The alternate monitoring method may be another CEMS which would also be subject to the requirements in Appendix F, Procedure 1.

Three commenters suggested the use of historical data for CEMS out-of-control periods as a valid alternative method. The Agency agrees that historical diluent emission data could be considered a valid alternative method, but that review of the alternative procedure and data by the Agency would be necessary before approval for specific or general use. Description of the procedure is included in 40 CFR 60.13(i).

One commenter provided a review of CEMS CD data (collected by EPA during a CEMS demonstration project) that indicated substantial invalidation of data because of excessive drift. The Agency reviewed the commenter's analyses and determined that the commenter erred in establishing the appropriate CD limits and in determining the number of out-of-control periods. The drift limit established by the commenter was about one-half of that defined in Procedure 1. This significant difference in CD on drift limits produced a significantly larger number of apparent drift limit violations than would be determined following the criteria in Procedure 1.

In addition, the commenter divided relatively long periods of poor CEMS performance into several periods of out-of-control operation. If the criteria in Procedure 1 had been followed, these individual periods of out-of-control performance would have been consolidated into relatively few out-of-control periods that would have ended only when corrective action was completed. The Agency has determined the long term CEMS operation can continue uninterrupted or with only few interruptions attributable to drift criteria violations.

Assessment of Data Accuracy

Many commenters expressed the opinion that quarterly assessment of data accuracy is too frequent. Suggestions for alternative schedules ranged from annual to only once at the time of CEMS installation. The commenters provided no information supporting a reduction in audit frequency. While the Agency agrees that CEMS design, application, and maintenance are critical to proper operation and high data quality, the Agency is convinced that the only measure of QC effectiveness is a periodic accuracy audit. The Agency's experience indicates that a quarterly audit frequency is appropriate; this is based on the results of studies of long term performance of CEM's performed by the EPA Office of Research and Development (technical paper describing the work is in the docket).

Procedure 1 has been revised from the proposal to reduce the burden of accuracy auditing within the scope of quarterly audit periods. The relative accuracy test audit (RATA) is performed as defined in the applicable performance specification in Appendix B and is required only once per year. Either of two other audit procedures is allowed for the other three audit periods each year; these procedures are the cylinder gas audit (CGA) and the RAA based on a three-run, manual method test.

Five commenters urged the use of calibration gas cells as acceptable audit materials. The Agency has no independent procedure for determining accurately the appropriate CEMS response a gas cell should produce. Without an independent certification of gas cells or an appropriate application procedure, the Agency has determined that gas cell audit material is unacceptable for accuracy auditing.

Several commenters proposed alternative audit procedures including fuel sampling and analysis, process rate measurements, and inclusion of new test method procedures (e.g., Methods 6A and 6B). The Agency has no data to support the use of fuel sampling and analysis procedures as a basis for CEMS accuracy auditing on any reasonable time scale (e.g., hourly or daily). The imprecision associated with fuel data for these short test periods is much greater than the acceptable drift limits specified for CEMS. Process rate measurements are also inappropriate as accuracy audit bases because of the source-specific nature of such procedures. The Agency provides means for reviewing and approving acceptable alternative procedures applicable to specific sources.

The Agency agrees that promulgated methods, such as Methods 3A, 6A, 6B, 6C, and 7E should be allowed as accuracy audit methods and has revised the appropriate paragraphs in the General Provisions accordingly.

Two commenters questioned the need to specify that all audits be completed in the first 2 months of any quarter. The Agency agrees and has changed the requirement in Procedure 1 to allow the audit to occur any time during a quarter, but there must be a minimum of 60 days between two quarterly audits.

Two commenters recommended three-point calibration checks in lieu of the two-point audit specified in Procedure 1 as a more appropriate audit procedure. The Agency disagrees that a three-point, repeated, calibration error test is a more appropriate audit. The calibration error test provides information about the linearity of the CEMS response throughout the range of the instrument response. The CGA in Procedure 1 tests the CEMS for the accuracy of responses to two audit gases with concentrations representing and bracketing the expected level of emissions at the level of the emission standard. This is a procedure that more appropriately represents an independent audit.

Several commenters proposed to allow manual method analysis of cylinder gas concentrations for the CGA. The Agency has determined that independent analysis of audits is necessary and has established a policy of traceability to National Bureau of Standards standard gaseous reference materials (SGRM's) or manufacturers' certified reference materials (CRM's) for this purpose.

Two commenters stated that use of the CGA and prohibition of the use of gas cells for auditing favors some CEMS technology over other types of systems. This, the commenters argued, discourages research and development of new equipment. The Agency believes the CGA is a technically acceptable, demonstrated, independent auditing procedure for CEM's. As noted earlier, the gas cell is not acceptable at this time as an audit material. Approval of a demonstrated alternative procedure, such as the CGA, is not favoritism nor

should it discourage development of other audit procedures or CEMS instrumentation.

Three commenters requested clarification or the definition of when an out-of-control period begins and ends. There are two tests that may result in out-of-control periods: the CD check and the accuracy audit. An out-of-control period resulting from excessive CEMS drift begins when the fifth consecutive excessive drift determination (or first drift determination in excess of four times the drift specification) occurs. The out-of-control period ends when corrective action is completed and the CEMS is demonstrated to operate within acceptable drift specifications again (i.e., at the end of the day when the CD measurements are within specifications).

The CEMS is determined to be out-of-control as a result of excessive inaccuracy from the time the accuracy audit sampling is completed. This does not include the time for sample analysis and data reduction. The out-of-control period ends when the CEMS completes the audit sampling successfully; again, time for sample analysis and data reduction is not included. This approach emphasizes the importance of expediting sample analysis and data reduction.

Two commenters questioned the requirement to conduct accuracy audits periodically when the source is operated seasonally or otherwise intermittently. The cost of possible forced-operation of a source in order to conduct an accuracy audit would be significant. Procedure 1 as promulgated requires only an annual RATA while quarterly audits may be completed using CGA or RAA. The Agency believes it is not burdensome to require a RATA and at least 50 percent load operation once per year. The Agency also believes it is critical to maintain operation of a CEMS regardless of operation of the source if that CEMS is to provide compliance data when the source is operating at compliance levels. The operator of a source that operates seasonally can request a revised schedule for auditing from the Agency that would include the RATA.

EPA Performance Audit Program

One commenter questioned the ability of the Agency to supply the EPA methods performance audit samples required for every RATA. The Agency has made the necessary plans with suppliers to have a sufficient supply of audit samples available not only for the RATA's but also for other compliance testing required using EPA methods.

Calculation of Data Accuracy

One commenter questioned the use of the confidence interval in calculating relative accuracy (RA) with fewer than nine data sets. While it is correct statistically to include the confidence interval with any number of data sets, the potential size of the confidence interval can overshadow the mean or average value when the number of data sets is reduced to as few as three. For this reason, the RAA quarterly audit alternative using only three runs will be determined based on the average values only. The RATA is conducted annually and will include the sum of the nine run average and the confidence interval in calculating RA.

Reporting Requirements

Five commenters stated that the promulgation of Appendix F, Procedure 1, would significantly increase recordkeeping and reporting requirements for affected facilities. They questioned whether the increase in labor and associated costs would yield a commensurate improvement in data quality. The Agency has eliminated a great deal of the data reduction and reporting requirements from the Procedure 1 proposal with the deletion of the precision determinations. The Agency believes it is not burdensome to require a source to supply audit results, drift assessments, and information about out-of-control periods with other compliance reports. Procedure 1 will not significantly increase the reporting requirements for sources using CEMS's for compliance monitoring.

One commenter proposed that Procedure 1 include a provision that would not preclude control agencies from taking into account QA results when reviewing CEMS data, but prohibit sources from doing so. The Agency's response is that it is technically incorrect to adjust CEMS data using RAA results. This applies to both the source owner/operator reporting the data and the control agency reviewing the results. Source operators must comply with reporting and recordkeeping requirements as they are written.

The bases for not allowing adjustment of CEMS results are the imprecision and error associated with both the CEMS and the audit method results. These measurement factors are the reason for allowing a range of audit results (e.g., 20 percent for the RATA) that indicates acceptable CEMS performance. In addition, the audits represent only a brief period of CEMS and process operation while compliance data represent relatively long periods of operation. There is no technical basis for adjusting CEMS results using QA data. Quality assurance results should be considered only in assuring that the CEMS performance is within specifications.

Costs of Implementation

Five commenters recalculated the estimated labor-years required to implement Procedure 1 at Subpart Da sources and found the number to be 124 person-years instead of the 80 person-years mentioned in the proposed preamble. The Agency determined the labor needed to meet the Procedure 1 requirements in the industry recognizing that not all Subpart Da sources would be operating the entire evaluation period (5 years). The commenters' figures represent the worst case view, but the Agency's 80 person-year value is also a conservative figure that more closely represents the expected costs.

Many commenters noted that the level of effort included in the proposal substantially underestimates the expected costs, because the proposal has labor estimates based on an evaluation of a unit having only one SO_2 and one NO_x monitor. Subpart Da sources are required to monitor SO_2 control efficiency which dicates that uncontrolled SO_2 emissions and diluent gases also be monitored. The Agency underestimated the costs of implementing Procedure 1 at a Subpart Da source by a factor of two, according to the commenters.

The Agency agrees that the cost estimates in the proposal were derived for only an outlet CEMS. However, adding the costs incurred by including an inlet CEMS will not necessarily double the costs of applying Procedure 1. Many QA tasks can be consolidated and duplication avoided so that total costs should be considerably less than twice the conservative costs mentioned in the proposal.

There are a number of other changes incorporated into Procedure 1 since proposal that will decrease estimated costs of implementation. The precision assessment and reporting have been eliminated. The RATA has been changed to once annually instead of semiannually, and the CGA and abbreviated RAA are allowed the other three quarters. The Agency has estimated effort for implementing Procedure 1 based on the promulgation version and determined these costs to be between 326 and 704 labor hours per year for a Subpart Da facility depending on the type of audit used, CGA or RAA. This cost is consistent with the estimate described in the proposal and does not

significantly change the estimated effects on the industry.

The Agency believes that the benefits from providing useable, valid, compliance emission data apply to both the source operator and the regulatory agency. The expenses for implementing Procedure 1 are worthwhile for the increased confidence in demonstrating compliance and in instituting enforcement action. Source operators further benefit through the availability of continuous, valid information on the operation of the control system and can use such data to optimize operation.

Miscellaneous

One commenter suggested that the Agency should focus on the research and development of CEMS technology in developing less burdensome QA requirements. The Agency believes CEMS technology is sufficiently developed to apply it to continuous compliance determinations. Numerous, successful, long-term, CEMS demonstrations have been reported by both the Agency and by industrial users. There is no substantive reason for delaying the implementation of Procedure 1.

III. Docket

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

IV. Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based entrprises to compete with foreign-based enterprises in domestic or export markets.

The Regulatory Flexibility Act of 1980 requires identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because this regulation affects only one source category, large utility boilers, and does not affect small business entities, no Regulatory Flexibility Analysis has been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the proposed rule will not have a significant economic impact on any small entities.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and any written EPA responses are available in the docket.

Dated: May 27, 1987.

Lee M. Thomas,

Administrator.

List of Subjects in 40 CFR Part 60

Air pollution control, sulfur dioxide.

PART 60—[AMENDED]

40 CFR Part 60 is amended as follows:

1. The authority for testing, monitoring, and reporting in Part 60 continues to read.

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

2. Section 60.13 is amended by revising paragraph (a) to read as follows:

§ 60.13 Monitoring requirements.

(a) For the purposes of this section, all continuous monitoring systems required under applicable subparts shall be subject to the provisions of this section upon promulgation of peformance specifications for continuous monitoring systems under Appendix B to this part and, if the continuous monitoring system is used to demonstrate compliance with emission limits on a continuous basis, Appendix F to this part, unless otherwise specified in an applicable subpart or by the Administrator. Appendix F is applicable December 4, 1987.

* * * * *

3. Section 60.45 is amended by revising paragraph (c)(1) to read as follows:

§ 60.45 Emission and fuel monitoring.

* * * * *

(c) * * *

(1) Methods 3 or 3A, 6, 6A, 6B or 6C, and 7, 7A, 7C, 7D or 7E, as applicable, shall be used for conducting relative accuracy evaluations of sulfur dioxide and nitrogen oxides continuous emission monitoring systems. Methods 3A, 6C, and 7E shall be used only at the sole discretion of the source owner or operator.

* * * * *

4. Section 60.47a is amended by revising paragraphs (h), (h)(1), (h)(2), and (i)(1) to read as follows:

§ 60.47a Emission monitoring.

* * * * *

(h) Methods used to supplement continuous emission monitoring system data to meet the minimum data requirements in § 60.47a(f) will be used as specified below or as otherwise approved by the Administrator.

(1) Methods 3 or 3A, 6 or 6C and 7, 7A, 7C, 7D or 7E as applicable, are used. Method 6A or 6B may be used whenever Methods 6 and 3 data are required to determine the SO_2 emission rate in ng/J. Methods 3A, 6C, and 7E are used only at the sole discretion of the source owner or operator. The sampling location(s) are the same as those specified for the continuous emission monitoring system.

(2) For Method 6 or 6A, the minimum sampling is 20 minutes and the minimum sampling volume is 0.02 dsm^3 (0.71 dscf) for each sample. Samples are collected at approximately 60-minute intervals. Each sample represents a 1-hour average. Method 6B shall be operated for 24 hours per sample, and the minimum sample volume is 0.02 dsm^3 (0.71 dscf) for each sample. Each Method 6b sample represents 24 1-hour averages.

* * * * *

(i) * * *

(1) Methods 3 or 3A, 6, 6A, 6B or 6C, and 7, 7A, 7C, 7D or 7E, as applicable, are used for conducting relative accuracy evaluations of sulfur dioxide and nitrogen oxides continuous emission monitoring systems. Methods 3A, 6C, and 7E are used only at the sole discretion of the source owner or operator.

* * * * *

5. By adding Appendix F, Procedure 1, to read as follows:

Appendix F—Quality Assurance Procedures

Procedure 1. Quality Assurance Requirements for Gas Continuous Emission Monitoring Systems Used for Compliance Determination

1. Applicability and Principle

1.1 Applicability. Procedure 1 is used to evaluate the effectiveness of quality control (QC) and quality assurance (QA) procedures

and the quality of data produced by any continuous emission monitoring system (CEMS) that is used for determining compliance with the emission standards on a continuous basis as specified in the applicable regulation. The CEMS may include pollutant (e.g., SO_2 and NO_x) and diluent (e.g., O_2 or CO_2) monitors.

This procedure specifies the minimum QA requirements necessary for the control and assessment of the quality of CEMS data submitted to the Environmental Protection Agency (EPA). Source owners and operators responsible for one or more CEMS's used for compliance monitoring must meet these minimum requirements and are encouraged to develop and implement a more extensive QA program or to continue such programs where they already exist.

Data collected as a result of QA and QC measures required in this procedure are to be submitted to the Agency. These data are to be used by both the Agency and the CEMS operator in assessing the effectiveness of the CEMS QC and QA procedures in the maintenance of acceptable CEMS operation and valid emission data.

Appendix F, Procedure 1 is applicable December 4, 1987. The first CEMS accuracy assessment shall be a relative accuracy test audit (RATA) (see section 5) and shall be completed by March 4, 1988 or the date of the initial performance test required by the applicable regulation, whichever is later.

1.2 Principle. The QA procedures consist of two distinct and equally important functions. One function is the assessment of the quality of the CEMS data by estimating accuracy. The other function is the control and improvement of the quality of the CEMS data by implementing QC policies and corrective actions. These two functions form a control loop: When the assessment function indicates that the data quality is inadequate, the control effort must be increased until the data quality is acceptable. In order to provide uniformity in the assessment and reporting of data quality, this procedure explicitly specifies the assessment methods for response drift and accuracy. The methods are based on procedures included in the applicable performance specifications (PS's) in Appendix B of 40 CFR Part 60. Procedure 1 also requires the analysis of the EPA audit samples concurrent with certain reference method (RM) analyses as specified in the applicable RM's.

Because the control and corrective action function encompasses a variety of policies, specifications, standards, and corrective measures, this procedure treats QC requirements in general terms to allow each source owner or operator to develop a QC system that is most effective and efficient for the circumstances.

2. Definitions

2.1 Continuous Emission Monitoring System. The total equipment required for the determination of a gas concentration or emission rate.

2.2 Diluent Gas. A major gaseous constituent in a gaseous pollutant mixture. For combustion sources, CO_2 and O_2 are the major gaseous constituents of interest.

2.3 Span Value. The upper limit of a gas concentration measurement range that is specified for affected source categories in the applicable subpart of the regulation.

2.4 Zero, Low-Level, and High-Level Values. The CEMS response values related to the source specific span value. Determination of zero, low-level, and high-level values is defined in the appropriate PS in Appendix B of this part.

2.5 Calibration Drift (CD). The difference in the CEMS output reading from a reference value after a period of operation during which no unscheduled maintenance, repair or adjustment took place. The reference value may be supplied by a cylinder gas, gas cell, or optical filter and need not be certified.

2.6 Relative Accuracy (RA). The absolute mean difference between the gas concentration or emission rate determined by the CEMS and the value determined by the RM's plus the 2.5 percent error confidence coefficient of a series of tests divided by the mean of the RM tests or the applicable emission limit.

3. QC Requirements

Each source owner or operator must develop and implement a QC program. As a minimum, each QC program must include written procedures which should describe in detail, complete, step-by-step procedures and operations for each of the following activities:

1. Calibration of CEMS.
2. CD determination and adjustment of CEMS.
3. Preventive maintenance of CEMS (including spare parts inventory).
4. Data recording, calculations, and reporting.
5. Accuracy audit procedures including sampling and analysis methods.
6. Program of corrective action for malfunctioning CEMS.

As described in Section 5.2, whenever excessive inaccuracies occur for two consecutive quarters, the source owner or operator must revise the current written procedures or modify or replace the CEMS to correct the deficiency causing the excessive inaccuracies.

These written procedures must be kept on record and available for inspection by the enforcement agency.

4. CD Assessment

4.1 CD Requirement. As described in 40 CFR Part 60.13(d), source owners and operators of CEMS must check, record, and quantify the CD at two concentration values at least once daily (approximately 24 hours) in accordance with the method prescribed by the manufacturer. The CEMS calibration must, as minimum, be adjusted whenever the daily zero (or low-level) CD or the daily high-level CD exceeds two times the limits of the applicable PS's in Appendix B of this regulation.

4.2 Recording Requirement for Automatic CD Adjusting Monitors. Monitors that automatically adjust the data to the corrected calibration values (e.g., microprocessor control) must be programmed to record the unadjusted concentration measured in the CD prior to resetting the calibration, if performed, or record the amount of adjustment.

4.3 Criteria for Excessive CD. If either the zero (for low-level) or high-level CD result exceeds twice the applicable drift specification in Appendix B for five, consecutive, daily periods, the CEMS is out-of-control. If either the zero (or low-level) or high-level CD result exceeds four times the applicable drift specification in Appendix B during any CD check, the CEMS is out-of-control. If the CEMS is out-of-control, take necessary corrective action. Following corrective action, repeat the CD checks.

4.3.1 Out-Of-Control Period Definition. The beginning of the out-of-control period is the time corresponding to the completion of the fifth, consecutive, daily CD check with a CD in excess of two times the allowable limit, or the time corresponding to the completion of the daily CD check preceding the daily CD check that results in a CD in excess of four times the allowable limit. The end of the out-of-control period is the time corresponding to the completion of the CD check following corrective action that results in the CD's at both the zero (or low-level) and high-level measurement points being within the corresponding allowable CD limit (i.e., either two times or four times the allowable limit in Appendix B).

4.3.2 CEMS Data Status During Out-of-Control Period. During the period the CEMS is out-of-control, the CEMS data may not be used in calculating emission compliance nor be counted towards meeting minimum data availability as required and described in the applicable subpart [e.g., § 60.47a(f)].

4.4 Data Recording and Reporting. As required in § 60.7(d) of this regulation (40 CFR Part 60), all measurements from the CEMS must be retained on file by the source owner for at least 2 years. However, emission data obtained on each successive day while the CEMS is out-of-control may not be included as part of the minimum daily data requirement of the applicable subpart [e.g., § 60.47a(f)] nor be used in the calculation of reported emissions for that period.

5. Data Accuracy Assessment

5.1 Auditing Requirements. Each CEMS must be audited at least once each calendar quarter. Successive quarterly audits shall occur no closer than 2 months. The audits shall be conducted as follows:

5.1.1 Relative Accuracy Test Audit (RATA). The RATA must be conducted at least once every four calendar quarters. Conduct the RATA as described for the RA test procedure in the applicable PS in Appendix B (e.g., PS 2 for SO_2 and NO_x). In addition, analyze the appropriate performance audit samples received from EPA as described in the applicable sampling methods (e.g., Methods 6 and 7).

5.1.2 Cylinder Gas Audit (CGA). If applicable, a CGA may be conducted in three of four calendar quarters, but in no more than three quarters in succession.

To conduct a CGA: (1) Challenge the CEMS (both pollutant and diluent portions of the CEMS, if applicable) with an audit gas of known concentration at two points within the following ranges:

Audit point	Audit range		
	Pollutant monitors	Diluent monitors for—	
		CO_2	O_2
1	20 to 30% of span value.	5 to 8% by volume.	4 to 6% by volume.
2	50 to 60% of span value.	10 to 14% by volume.	8 to 12% by volume.

Challenge the CEMS three times at each audit point, and use the average of the three responses in determining accuracy.

Use of separate audit gas cylinder for audit points 1 and 2. Do not dilute gas from audit cylinder when challenging the CEMS.

The monitor should be challenged at each audit point for a sufficient period of time to assure adsorption-desorption of the CEMS sample transport surfaces has stabilized.

(2) Operate each monitor in its normal sampling mode, i.e., pass the audit gas through all filters, scrubbers, conditioners, and other monitor components used during normal sampling, and as much of the sampling probe as is practical. At a minimum, the audit gas should be introduced at the connection between the probe and the sample line.

(3) Use audit gases that have been certified by comparision to National Bureau of Standards (NBS) gaseous Standard Reference Materials (SRM's) or NBS/EPA approved gas manufacturer's Certified Reference Materials (CRM's) (See Citation 1) following EPA Traceability Protocol No. 1 (See Citation 2). As an alternative to Protocol No. 1 audit gases, CRM's may be used directly as audit gases. A list of gas manufacturers that have prepared approved CRM's is available from EPA at the address shown in Citation 1. Procedures for preparation of CRM's are described in Citation 1. Procedures for preperation of EPA Traceability Protocol 1 materials are described in Citation 2.

The difference between the actual concentration of the audit gas and the concentration indicated by the monitor is used to assess the accuracy of the CEMS.

5.1.3 Relative Accuracy Audit (RAA). The RAA may be conducted three of four calendar quarters, but in no more than three quarters in succession. To conduct a RAA, follow the procedure described in the applicable PS in Appendix B for the relative accuracy test, except that only three sets of measurement data are required. Analyses of EPA performance audit samples are also required.

The relative difference between the mean of the RM values and the mean of the CEMS responses will be used to assess the accuracy of the CEMS.

5.1.4 Other Alternative Audits. Other alternative audit procedures may be used as approved by the Administrator for three of four calendar quarters. One RATA is required at least once every four calendar quarters.

5.2 Criteria for Excessive Inaccuracy. If the RA, using the RATA, exceeds 20 percent or 10 percent of the applicable standard, whichever is greater, the CEMS is out-of-control. For SO_2 emission standards between 130 and 86 ng/J (0.30 and 0.20 lb/million Btu), use 15 percent of the applicable standard; below 86 ng/J (0.20 ng/J (0.20 lb/million Btu), use 20 percent of emission standard. If the inaccuracy exceeds ±15 percent using the CGA or the RAA, or, for the RAA, 7.5 percent of the applicable standard, whichever is greater, the CEMS is out-of-control. If the CEMS is out-of-control, corrective action, the source owner or operator must audit the CEMS accuracy with a RATA, CGA, or RATA must always be used following an out-of-control period resulting from a RATA. The audit following corrective action does not require analysis of EPA performance audit samples. If accuracy audit results show the CEMS to be out-of-control, the CEMS operator shall report both the audit showing the dems to be out-of-control and the results of the audit following corrective action showing the CEMS to be operating within specifications.

5.2.1 Out-Of-Control Period Definition. The beginning of the out-of-control period is the time corresponding to the completion of the sampling for the RATA, RAA, or CGA. The end of the out-of-control period is the time corresponding to the completion of the sampling of the subsequent successful audit.

5.2.2. CEMS Data Status During Out-Of-Control Period. During the period the monitor is out-of-control, the CEMS data may not be used in calculating emission compliance nor be counted towards meeting minimum data availabilty as required and described in the applicable subpart [e.g., § 60.47a(f)].

5.3 Criteria for Acceptable QC Procedure. Repeated excessive inaccuracies (i.e., out-of-control conditions resulting from the quarterly audits) indicates the QC procedures are inadequate or that the CEMS is incapable of providing quality data. Therefore, whenever excessive inaccuracies occur for two consective quarters, the source owner or operator must revise the QC procedures (see Section 3) or modify or replace the CEMS.

6. *Calculations for CEMS Data Accuracy*

6.1 RATA RA Calculation. Follow the equations described in Section 8 of Appendix B, PS 2 to calculate the RA for the RATA. The RATA must be calculated in units of the applicable emission standard (e.g., ng/J).

6.2 RAA Accuracy Calculation. Use Equation 1–1 to calculate the accuracy for the RAA. The RAA must be calculated in units of the applicable emission standard (e.g., ng/J).

6.3 CGA Accuracy Calculation. Use Equation 1–1 to calculate the accuracy for the CGA, which is calculated in units of the appropriate concentration (e.g., ppm SO_2 or percent O_2). Each component of the CEMS must meet the acceptable accuracy requirement.

$$A = \frac{C_m - C_a}{C_a} \times 100 \qquad \text{Eq. 1–1}$$

where:

A = Accuracy of the CEMS, percent.

C_m = Average CEMS response during audit in units of applicable standard or appropriate concentration.

C_a = Average audit value (CGA certified value or three-run average for RAA) in units of applicable standard or appropriate concentration.

6.4 Example Accuracy Calculations. Example calculations for the RATA, RAA, and CGA are available in Citation 3.

7. Reporting Requirements

At the reporting interval specified in the applicable regulation, report for each CEMS the accuracy results from Section 6 and the CD assessment results from Section 4. Report the drift and accuracy information as a Data Assessment Report (DAR), and include one copy of this DAR for each quarterly audit with the report of emissions required under the applicable subparts of this part.

As a minimum, the DAR must contain the following information:

1. Source owner or operator name and address.

2. Identification and location of monitors in the CEMS.

3. Manufacturer and model number of each monitor in the CEMS.

4. Assessment of CEMS data accuracy and date of assessment as determined by a RATA, RAA, or CGA described in Section 5 including the RA for the RATA, the A for the RAA or CGA, the RM results, the cylinder gases certified values, the CEMS responses, and the calculations results as defined in Section 6. If the accuracy audit results show the CEMS to be out-of-control, the CEMS operator shall report both the audit results showing the CEMS to be out-of-control and the results of the audit following corrective action showing the CEMS to be operating within specifications.

5. Results from EPA performance audit samples described in Section 5 and the applicable RM's.

6. Summary of all corrective actions taken when CEMS was determined out-of-control, as described in Sections 4 and 5.

An example of a DAR format is shown in Figure 1.

8. Biblography

1. "A Procedure for Establishing Traceability of Gas Mixtures to Certain National Bureau of Standards Standard Reference Materials." Joint publication by NBS and EPA–600/7–81–010. Available from the U.S. Environmental Protection Agency, Quality Assurance Division (MD–77), Research Triangle Park, North Carolina 27711.

2. "Traceability Protocol for Establishing True Concentrations of Gases Used for Calibration and Audits of Continuous Source Emission Monitors (Protocol Number 1)" June 1978. Section 3.0.4 of the Quality Assurance Handbook for Air Pollution Measurement Systems, Volume III, Stationary Source Specific Methods. EPA–600/4–77–027b. August 1977. U.S. Environmental Protection Agency, Office of Research and Development Publications, 26 West St. Clair Street, Cincinnati, Ohio 45268.

3. Calculation and Interpretation of Accuracy for Continuous Emission Monitoring Systems (CEMS). Section 3.0.7 of the Quality Assurance Handbook for Air Pollution Measurement Systems, Volume III, Stationary Source Specific Methods. EPA–600/4–77–027b. August 1977. U.S. Environmental Protection Agency, Office of

Research and Development Publications, 26 West St. Clair Street, Cincinnati, Ohio 45268.

Figure 1. Example Format for Data Assessment Report

Period ending date _____
Year _____
Company name _____
Plant name _____
Source unit no. _____
CEMS manufacturer _____
Model no. _____
CEMS serial no. _____
CEMS type (e.g., in situ) _____
CEMS sampling location (e.g., control device outlet) _____
CEMS span values as per the applicable regulation, SO_2 _____ ppm, O_2 _____ percent, NO_x _____ ppm, CO_2 _____ percent

I. Accuracy assessment results (Complete A, B, or C below for each CEMS or for each pollutant and diluent analyzer, as applicable.) If the quarterly audit results show the CEMS to be out-of-control, report the results of both the quarterly audit and the audit following corrective action showing the CEMS to be operating properly.

A. Relative accuracy test audit (RATA) for _____ (e.g., SO_2 in ng/J).
1. Date of audit _____.
2. Reference methods (RM's) used _____ (e.g., Methods 3 and 6).
3. Average RM value _____ (e.g., ng/J, mg/dsm^3, or percent volume).
4. Average CEMS value _____.
5. Absolute value of mean difference [d] _____.
6. Confidence coefficient [CC] _____.
7. Percent relative accuracy (RA) _____ percent.
8. EPA performance audit results:
a. Audit lot number (1) _____ (2) _____
b. Audit sample number (1) _____ (2) _____
c. Results (mg/dsm^3) (1) _____ (2) _____
d. Actual value (mg/dsm^3)* (1) _____ (2) _____
e. Relative error* (1) _____ (2) _____

B. Cylinder gas audit (CGA) for _____ (e.g., SO_2 in ppm).

	Audit point 1	Audit point 2	
1. Date of audit	.....	.....	
2. Cylinder ID number.	.....	.....	
3. Date of certification.	.....	.....	
4. Type of certification.	.....	.....	(e.g., EPA Protocol 1 or CRM).
5. Certified audit value.	.....	.....	(e.g., ppm).
6. CEMS response value.	.....	.....	(e.g., ppm).
7. Accuracy	.....	.....	percent.

C. Relative accuracy audit (RAA) for _____ (e.g., SO_2 in ng/J).
1. Date of audit _____.
2. Reference methods (RM's) used _____ (e.g., Methods 3 and 6).
3. Average RM value _____ (e.g., ng/J).
4. Average CEMS value _____.
5. Accuracy _____ percent.
6. EPA performance audit results:
a. Audit lot number (1) _____ (2) _____
b. Audit sample number (1) _____ (2) _____
c. Results (mg/dsm^3) (1) _____ (2) _____
d. Actual value (mg/dsm^3) *(1) _____ (2) _____
e. Relative error* (1) _____ (2) _____

D. Corrective action for excessive inaccuracy.
1. Out-of-control periods.
a. Date(s) _____.
b. Number of days _____.
2. Corrective action taken _____

3. Results of audit following corrective action. (Use format of A, B, or C above, as applicable.)

II. Calibration drift assessment.
A. Out-of-control periods.
1. Date(s) _____.
2. Number of days _____.
B. Corrective action taken _____

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40 CFR Parts 260, 261, 262, 264, 265, 268, 270, and 271

[SWH-FRL-3212-9]

Hazardous Waste Management System; Land Disposal Restrictions; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: On November 7, 1986 (51 FR 40572), EPA promulgated the first phase of the land disposal restrictions under the authority of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984. This notice corrects errors in the preamble and regulation language of the November 7, 1986 final rule.

DATE: This rule is effective on June 4, 1987.

FOR FURTHER INFORMATION CONTACT: For general information about this rulemaking, contact the RCRA Hotline, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (800) 424-9346 (toll free) or (202) 382-3000 in the Washington, DC metropolitan area.

For information on specific aspects of this rule, contact: Gary A. Jonesi, Jacqueline W. Sales, or Stephen R. Weil, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-4770.

* To be completed by the Agency.

SUPPLEMENTARY INFORMATION:

I. Background

On November 7, 1986 (51 FR 40572), EPA promulgated its approach to implementing the congressionally mandated prohibitions on the land disposal of hazardous waste. That rule established procedures for setting treatment standards for hazarous wastes, for granting nationwide variances from statutory effective dates, for granting extensions of effective dates on a case-by-case basis, for evaluating petitions for a variance from the treatment standards, and for evaluating petitions demonstrating that continued land dispoal of hazardous wastes is protective of human health and the environment. In addition, EPA promulgated specific treatment standards and effective dates for hazardous wastes included in the first phase of the land disposal prohibitions: certain dioxin-containing and solvent-containing hazardous wastes.

Today's notice corrects a number of errors contained in the final rule, many of which are typographical and grammatical errors. The more substantive corrections to the preamble and regulation language are summarized below.

II. Summary of Corrections

1. Throughout the preamble (*e.g.*, 51 FR 40577) and regulatory language (*see e.g.*, § 268.1) of the final rule, EPA indicated that the Part 268 land disposal restriction regulations apply to both interim status and permitted facilities. The Agency inadvertently omitted a cross-reference to the Part 268 standards in the applicability sections of Parts 264 and 265. Today's notice corrects this deficiency by adding a new § 264.1(h) and § 265.1(e) which clarify that the Part 268 standards apply regardless of permit status.

2. In the preamble to the final rule (51 FR 40611), the Agency summarized the quantities of wastes estimated to be land disposed for purposes of determining whether nationwide capacity variances should be granted. In summarizing the quantity estimates found in the Background Document, EPA inadvertently made several numerical and descriptive errors in the preamble. Although these errors do not alter the Agency's capacity determinations, today's notice corrects these inconsistencies so that the preamble

properly reflects the calculations reached in the Background Document.

3. In the applicability provision of the regulation, EPA specified four exemptions to the land disposal prohibitions, among them an exemption in § 268.1(c)(4) for small quantity generators of less than 100 kilograms of hazardous waste per month. The plain language of § 268.1(c)(4) inadvertently exempts small quantity generators of between 1 kilogram and 100 kilograms of acute hazardous wastes per month from the land disposal restrictions even though these generators are currently subject to full regulation under RCRA. (See 40 CFR 261.5.) The Agency noted in the preamble to the January 14, 1986 proposed rule (51 FR 1608) that acute hazardous wastes would remain subject to full regulation when generated in quantities greater than 1 kilogram per month. In the preamble to the final rule, EPA did not indicate any intent to exempt generators of greater than 1 kilogram of acute hazardous wastes per month. Today's notice corrects the language of the final rule to reflect the Agency's intent that only small quantity generators of less than 100 kilograms of non-acute hazardous wastes per month or less than 1 kilogram of acute hazardous waste per month, as defined in § 261.5, are exempt from the land disposal restrictions.

4. In the preamble to the final rule (51 FR 40580), EPA determined that open burning and open detonation of explosive wastes are not considered to be land disposal. References to open detonation and open burning were inadvertently included in the definition of "land disposal" in another portion of the preamble (51 FR 40577) and in § 268.2. Today's notice deletes the incorrect references.

5. In the preamble to the final rule (51 FR 40632), EPA characterized the § 268.4 exemption for treatment in surface impoundments as requiring such impoundments to be constructed with two or more liners and a leachate collection system and to be in compliance with applicable ground water monitoring requirements. This characterization inadvertently omitted mention of various design or performance alternatives allowed such impoundments by both RCRA (sections 3004(o)(2), 3005(j)(2), and 3005(j)(4)) and the regulatory language (§ 268.4(a)(3)). Today's notice corrects this omission.

6. In the preamble to the final rule (51 FR 40601), EPA stated that wastes otherwise prohibited from land disposal may be treated in surface impoundments provided the requirements of § 268.4 are met. One requirement in § 268.4 is that residues not meeting the applicable treatment standards must be removed at least annually for subsequent management. Both the preamble and § 268.4 prohibit such subsequent management in surface imoundments. Since § 268.4(a)(1) makes this exemption conditional upon treatment in the impoundment, the removed residues must be managed in full compliance with the Part 268 requirements (i.e., treated to meet the Subpart D standards without violating the § 268.3 dilution prohibition) or be subject to a case-by-case extension under § 268.5, a "no migration" exemption under § 268.6, or a treatment variance under § 268.44. Under any scenario, the residues that are removed from the impoundment must comply with the § 268.7 waste analysis and recordkeeping requirements and all other applicable Part 268 requirements (e.g., the § 268.50 storage prohibition).

Section 268.4(a) does not reflect this view. Instead, it mistakenly exempts "persons" from *all* Part 268 requirements rather than exempting the otherwise prohibited wastes treated in the impoundment(s). Today's notice corrects this error by revising § 268.4(a) to reflect that § 268.4 is only an exemption from the prohibition on placement of restricted wastes in surface impoundments and not an exemption from other Part 268 requirements when residues exceeding the applicable treatment standards are removed from the impoundments. Furthermore, today's corrections clarify that the exemption applies only to the wastes treated in the exempt impoundments and not to other wastes or other non-exempt units owned or operated by such persons.

7. In both the preamble to the final rule (51 FR 40602) and § 268.4(a)(3), EPA identified two statutory exemptions from the minimum technological requirements applicable to surface impoundments. However, in codifying these exemptions for purposes of the § 268.4 treatment in surface impoundments exemption, the Agency inadvertently omitted the statutory requirements contained in RCRA 3005(j)(4) and RCRA 3005(j)(5) that the Administrator provide notice and an opportunity to comment prior to granting any such exemptions. Today's notice corrects this omission.

8. EPA noted in the preamble to the final rule that RCRA § 3004(h)(4) requires that during the period of a nationwide variance or case-by-case extension, restricted wastes may be disposed in a landfill or surface impoundment only if such facilities are in compliance with RCRA § 3004(o). The Agency interprets § 3004(h)(4) to provide that the minimum technological requirements specified in § 3004(o) are only applicable to certain new landfill and surface impoundment units, and to replacements and lateral expansions of existing units (51 FR 40603–40604). Although § 268.5(h)(2) correctly reflects this interpretation, EPA inadvertently included contradictory language in § 268.5(h)(2)(iii). Today's notice deletes the incorrect language.

9. In both the preamble to the final rule (51 FR 40597) and in § 268.7(a), EPA provided that generators may determine whether their wastes are restricted based on waste analysis data, knowledge of the waste, or both. The preamble (51 FR 40597) stated the Agency's intent that where this determination is based solely on the generator's knowledge of the waste, EPA is requiring that the generator must maintain all supporting data used to make this determination. However, the reference in the preamble to the generator's "operating record" was an error. It was EPA's intent that such records be kept on-site in the generator's files (because the requirements for formal operating records do not apply to generators unless they are also owners or operators of treatment, storage, or disposal facilities). The Agency also inadvertently omitted this recordkeeping requirement from the regulatory language in § 268.7(a). Today's notice corrects these errors.

10. In the preamble to the final rule (51 FR 40597), EPA stated that testing and recordkeeping is critical to implementation of the land disposal restrictions. Although the Agency acknowledged that the ultimate responsibility is on land disposal facilities to ensure that restricted wastes are not illegally disposed, EPA imposed certain waste analysis, notice, and recordkeeping requiremetns on generators and treatment facilities, as well as land disposal facilities. The preamble reflects EPA's intent that these requirements are applicable regardless of whether the wastes are directly land disposed or whether they are treated. However, ambiguous language in § 268.7(a)(1) could improperly be construed as exempting generators from these requirements unless restricted wastes are either directly land disposed without treatment or treated and subsequently land disposed. Today's notice corrects the ambiguous regulatory language by revising § 268.7(a)(1) to reflect that the notification requirements of this section apply to all generators who handle restricted wastes exceeding the applicable treatment standards regardless of whether or when such wastes are ultimately land disposed.

11. The preamble to the final rule (51 FR 40597) expresses the Agency's intent that the § 268.7 notifications, certifications, and waste analysis data are to accompany each waste shipment; however, § 268.7 itself could improperly be construed as allowing the submission of such documentation at a later time. Today's notice corrects this ambiguity by revising § 268.7 to conform with the preamble discussion.

12. In § 268.7(a)(3) of the final rule, EPA is requiring that where a generator's waste is subject to one of several variances or exemptions, he must forward a notice to the land disposal facility receiving his waste stating that the waste is exempt from the prohibition on land disposal. The Agency inadvertently omitted from this requirement those wastes subject to the statutory extension (codified in § 268.1(c)(3)) for contaminated soil and debris resulting from response actions taken under CERCLA § 104 or § 106 or RCRA corrective action authority. Today's notice corrects this omission.

13. In the preamble to the final rule (51 FR 40597), EPA recognized the need to impose certain waste analysis, notice, and recordkeeping requirements in order to ensure that only wastes which meet the treatment standards (or are otherwise exempt from the land disposal prohibitions) will be transported to land disposal facilities. Among these requirements is the § 268.7 provision stating that treatment facilities must certify to land disposal facilities that the wastes or treatment residues meet the applicable treatment standards. Section 268.7, however, is not completely clear with respect to the obligations of treatment facilities when sending prohibited wastes or treatment residues to a different treatment facility for further treatment. Although the final rule contemplates that such situations occur (*see, e.g.*, § 268.40 which refers to "further treatment"), the tracking requirements in § 268.7 deal explicitly only with the case of a treatment facility shipping wastes or residues to a land disposal facility.

The Agency intended that in situations where further treatment is required, such that shipment is to another treatment facility, treatment facilities must comply with the same notice requirements applicable to generators shipping to treatment facilities. EPA believes that this requirement is already implicit in the rules, given the existing obligations of treatment facilities initiating shipments of hazardous waste to comply with generator requirements (see § 264.71(c) and § 265.71(c)). To avoid confusion, however, today's notice revises § 268.7(b) to explicitly state that in cases where the treatment residues do not meet the treatment standards, the treatment facility must comply with the notice requirements applicable to generators in § 268.7(a)(1) if the treatment residues will be further managed at a different treatment facility.

14. In the preamble to the final rule (51 FR 40597), EPA stated that generators who dispose of restricted wastes on site must put into their operating record the same notification (except for the manifest number), certification, and waste analysis data as required by off-site disposal facilities. However, § 268.7(c) states that only disposal facilities "accepting" restricted wastes must comply with these requirements, implying incorrectly that this requirement applies only to off-site disposal facilities. Today's notice corrects this erroneous implication.

15. There are a number of errors in § 268.7(c), which sets out testing and recordkeeping requirements for land disposal facilities. First, the rule incorrectly implies that land disposal facilities have an obligation to test each incoming shipment even if the generator or treatment facility has provided the land disposal facility with waste anaylsis data indicating that the wastes or treatment residues meet the applicable treatment standards. The Agency indicated in the preamble (51 FR 40598) that land disposal facilities must test their wastes to determine compliance with the treatment standards as frequently as specified in the facility's waste analysis plan. Testing each shipment is not necessarily required. Rather, the facility's waste analysis plan should specify the frequency required in order to meet the Part 264 or Part 265 obligations. Today's notice revises § 268.7(c) to reflect these points.

Second, § 268.7(c) does not state explicitly that the Toxicity Characteristic Leaching Procedure (TCLP) must be used by land disposal facilities to evaluate compliance with the § 268.41 treatment standards. However, this requirement is implicit since disposal facilities are required to test to assure compliance with the treatment standards and the TCLP is the method used for determining compliance (see § 268.7(c) and 51 FR 40593, 40598). Accordingly, today's notice revises § 268.7(c) to indicate explicitly that when a land disposal facility tests, it must analyze an extract developed using the TCLP. (Where a total constituent analysis reveals that individual constituents are present in concentrations below the applicable treatment standards, the TCLP need not be run. See Appendix I to Part 268, Step 1.2.) Aside from this requirement to utilize the TCLP, today's notice clarifies that existing waste analysis requirements specified in § 264.13 and § 265.13 remain applicable.

16. In the November 7, 1986 final rule, EPA granted several nationwide variances from the statutory prohibition effective date based on a lack of adequate alternative treatment capacity. Among these is a 2-year nationwide variance for solvent wastes which contain less than 1% total F001–F005 solvent constituents. The Agency indicated in the preamble (*e.g.*, 51 FR 40601, 40623) and in regulatory language (*e.g.*, § 268.4(a)(2), § 268.7(b)(2), § 268.40) that treatment residues from wastes that initially contain greater than or equal to 1% total F001–F005 solvent constituents must meet the applicable treatment standards. Furthermore, EPA stated in the preamble to the final rule (51 FR 40575, 40615) and in § 268.41 that F028 dioxin-containing wastes, which are treatment residues resulting from incineration or thermal treatment, must also meet the applicable treatment standards. These passages all state the general principle that once a hazardous waste is prohibited it must be treated until it meets the applicable treatment standards.

However, ambiguous language in § 268.30 could improperly be construed as allowing treatment residuals to qualify for a nationwide variance even though these residuals are derived from treating wastes that are ineligible for the nationwide variance. Today's notice corrects this ambiguity by revising § 268.30(a)(3) to reflect that the determination as to the availability of such a 2-year variance is to be made by the initial generator of the waste before the waste has been treated (e.g., by recycling, incineration, or other methods). Therefore, for this purpose, treatment residuals are not to be viewed as newly generated wastes.

17. In the preamble to the final rule, EPA stated that it was granting a two-year nationwide variance from the November 8, 1986 prohibition effective date for several categories of wastes due to a shortage of available incineration capacity. Although the preamble correctly identifies "solvent-containing sludges and solids" among the wastes granted such a variance (51 FR 40615), EPA inadvertently omitted the reference to "solids" from the regulatory language in § 268.30(a)(3). Today's notice corrects this error.

18. EPA correctly stated in both the preamble (51 FR 40597) and in § 268.7(a)(2) that wastes naturally meeting the treatment standards may be land disposed without further treatment. However language in § 268.30(c)(1), § 268.31(b)(1), and § 268.41(a) implies that all wastes must be treated before being land disposed, including those wastes that already meet the treatment standards. Today's notice corrects these erroneous implications.

19. The final rule established procedures in § 268.6 for granting petitions allowing continued land disposal of prohibited wastes based on a demonstration that there will be "no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous." EPA correctly stated in the preamble to the final rule (51 FR 40582) and in the regulatory language in § 268.1(c)(2) and § 268.6(f) that such "no migration" petitions, if approved, apply only to land disposal of the specific waste at the individual disposal unit described in the demonstration. Both § 268.30(c)(2) and § 268.31(b)(2) do not reflect this waste-specific and unit-specific approach. Instead, they could improperly be construed as allowing exemptions from the land disposal prohibitions where a "no migration" petition has been granted to a facility but not with respect to the wastes and units that are the subject of the petition demonstration. Today's notice corrects this error.

20. The final rule established procedures in § 268.5 for obtaining case-by-case extensions to a prohibition effective date. Although it is clear in both § 268.5(d) and § 268.1(c)(1) that case-by-case extensions apply only to those wastes generated at the individual facility covered by the application, both § 268.30(c)(3) and § 268.31(b)(3) could improperly be construed as allowing an extension for wastes which are not the subject of a successful § 268.5 demonstration as long as the applicant has obtained such an extension for other wastes. Today's notice corrects this error.

21. In § 268.41 of the final rule, EPA established a treatment standard of <1 ppb for the restricted dioxin-containing wastes. The Agency explained in the preamble (51 FR 40585) that this level is based on the routinely achievable detection limit (i.e., using SW–846 Test Method 8280) because current analytical techniques are not capable of detecting dioxin-containing wastes at the levels achievable by incineration. EPA stated that it may revise the 1 ppb treatment standard if additional data become available which demonstrate a lower detection limit; however, the Agency incorrectly implied in a footnote to the preamble (51 FR 40615, n. 12) that the treatment standard was established at a "no detection" level. This could inadvertently subject those employing experimental detection methods which are more sensitive than Method 8280 to the prohibitions on land disposal. Today's notice deletes this erroneous implication.

22. In the final rule (§ 268.31), EPA granted a 2-year nationwide variance from the prohibition effective date for certain dioxin-containing wastes. In addition, the Agency promulgated procedures (§ 268.5) for granting case-by-base extensions to prohibition effective dates. Although EPA stated in these provisions that certain ground water monitoring and design requirements must be met when wastes are disposed in landfills or surface impoundments during the period of a nationwide variance or case-by-case extension, the Agency inadvertently failed to reiterate in the regulatory language that the numerous existing requirements in Parts 264 and 265 regarding the management of these dioxin-containing wastes remain applicable. For example, § 265.1(d) prohibits the management of such wastes at most interim status facilities.

Neither the preamble nor the regulatory language indicates an intent to reduce the stringency of regulation by superseding the existing requirements for management of such wastes. The preamble to the final rule (51 FR 40615) properly reflects EPA's intent that these dioxin-containing wastes are subject to both the special management requirements found in Parts 264 and 265 as well as the minimum technological requirements referred to in § 268.5(h)(2). However, the regulatory language is not clear on this issue. Today's notice corrects this deficiency by revising the regulatory language to clarify that existing requirements remain applicable.

23. The final rule established a procedure for submitting petitions for variances from the treatment standards. The preamble (51 FR 40606) provides that applicants for such petitions certify that all submitted information is accurate; however, an incorrect section of the regulation is referenced in the preamble and EPA inadvertently omitted the required certification provision from the regulatory language in § 268.44. Today's notice corrects these errors.

24. In the preamble to the final rule (51 FR 40583), the Agency stated that, in implementing the RCRA section 3004(j) storage prohibition, it is requiring owners/operators to comply with the same requirements for dating containers as set forth for generators under existing regulations at 40 CFR 262.34(a)(2). EPA similarly intended to require marking of tanks consistent with existing operating record regulations. However, the § 268.50 storage prohibition contains ambiguous language which does not clearly specify whether an owner/operator must record the date the tanks or containers enter storage or the date each period of accumulation in such tanks or containers begins.

Today's notice corrects this ambiguity by revising § 268.50(a)(2) to reflect that each period of accumulation must be recorded on the containers themselves, as is currently required under § 262.34. However, where storage of prohibited wastes occurs in tanks, the Agency has not expressed any intent to deviate from existing regulations in § 264.73 and § 265.73 which allow the recording of each period of accumulation in the facility's operating record. Today's notice corrects § 268.50(a)(2) to conform with these existing requirements.

25. In § 268.50 of the final rule, EPA prohibited the storage of restricted wastes unless certain conditions are met. Among these conditions are the above-mentioned marking requirements relating to the tanks or containers storing such wastes. However, § 268.50 could improperly be construed as allowing storage of restricted wastes outside of tanks or containers (e.g., waste piles). The Agency stated in the January 14, 1986 proposed rule (51 FR 1709) that storage of restricted wastes outside tanks or containers is considered land disposal and, therefore, prohibited. The definition of land disposal adopted in § 268.2 of the final rule supports this limitation on the storage of restricted wastes. Today's notice revises § 268.50(a)(1) and § 268.50(a)(2) to reflect that wastes restricted from land disposal under Part 268 may be stored only in tanks or containers and only under the conditions specified in § 268.50. Any other storage is considered land disposal and would be allowed only if a successful "no migration" petition has been granted pursuant to § 268.6.

26. In the preamble to the final rule (51 FR 40592), EPA explained that a prohibition on dilution to circumvent an effective date was not proposed prior to November 7, 1986 and, therefore, was not included in the final rule. EPA stated that a prohibition on dilution to circumvent an effective date would have to be proposed separately. The Agency proposed such a prohibition on

December 11, 1986 (51 FR 44739); however, another part of the November 7, 1986 preamble (51 FR 40620) incorrectly implies that such a dilution prohibition was included in the final rule. Today's notice deletes this erroneous language. In doing so, EPA is reiterating that such a prohibition is not contained in the November 7, 1986 final rule only because it was not proposed prior to November 7, 1986.

27. In the preamble to the final rule (51 FR 40629), EPA incorrectly indicated that when the Agency grants a variance from a treatment standard it must subsequently make a national capacity determination regarding the availability of appropriate treatment capacity for that waste. Neither the treatment variance procedures in § 268.44 nor any other part of the regulatory language or preamble reflects this view. EPA recognizes its obligation to make capacity determinations in order to grant nationwide variances from the prohibition effective dates; however, the Agency did not intend to require such capacity determinations where a nationwide variance is not granted. Today's notice corrects the preamble language to reflect this view.

III. Rationale for Immediate Effective Date

Today's notice does not create any new regulatory requirements. Rather, it restates and clarifies existing requirements by correcting a number of errors in the November 7, 1986 final rule (51 FR 40572). For these reasons, EPA finds that good cause exists under section 3010(b)(3) of RCRA, 42 U.S.C. 6903(b)(3), to provide for an immediate effective date. For the same reasons, EPA finds that there is good cause under 5 U.S.C. 553(b)(3)(B) to promulgate today's corrections in final form and that there is good cause under 5 U.S.C. 553(d)(3) to waive the requirement that regulations be published at least 30 days before they become effective.

Dated: May 21, 1987.

J.W. McGraw,

Acting Assistant Administrator.

The following corrections are made in the preamble to SWH–FRL 3089–5, the Hazardous Waste Management System; Land Disposal Restrictions Final Rule, published in the **Federal Register** on November 7, 1986 (51 FR 40572):

1. On page 40577, first column, in the first paragraph of section B.1., the last sentence should read "The Agency has concluded that these methods do not constitute land disposal." The remainder of the sentence is deleted.

2. On page 40578, third column, third and fourth lines from the bottom, "land disposal" should read "treatment".

3. On page 40579, second column, fifth line in the first full paragraph, "261.3 (e) and (f)" should read "261.33 (e) and (f)".

4. On page 40579, third column, third line from the bottom, "November 8, 1988" should read "November 8, 1986".

5. On page 40581, second column, eleventh line, "November 14, 1986" should read "January 14, 1986".

6. On page 40585, third column, seventeenth line, "99.999" should read "99.9999".

7. On page 40591, second column, in the first equation, "i=i" should read "i=1".

8. On page 40597, first column, fourth through sixth lines from the bottom,"maintain in the facility operating record all supporting data used to make this certification." should read "keep all supporting data used to make this determination on-site in the generator's files."

9. On page 40598, second column, last line before section C.3., "§ 268.7(b)(1)" should read "§ 268.7(b)(2)(ii)".

10. On page 40600, second column, eleventh line from the bottom, "3003(h)(2)" should read "3004(h)(2)".

11. On page 40601, second column, fourth line of section D.9., "(h)(4)" should read "(h)(3)".

12. On page 40603, third column, seventh line of section F.1.*g*., "3004(h)(4)" should read "3004(h)(3)".

13. On page 40606, second column, the fifth line from the bottom should read "the Agency under § 268.44(c) is accurate".

14. On page 40610, third column, the first sentence in Section D.1 should read "Based on available data from the RIA Mail Survey, EPA estimates that 2,849 million gallons per year of solvent wastes are managed in units defined as land disposal under today's rule."

15. On page 40611, first column, the sentence beginning on the tenth line from the bottom should read "This change results in an increase in solvent-water mixtures land disposed of 1,644 million gal/yr and an increase in quantity for all other waste types land disposed of 19 million gal/yr, for a total increase of 1,663 milion gal/yr."

16. On page 40611, third column, twenty-third line, the number "21.7" should read "20.2".

17. On page 40611, third column, the last sentence before section D.2. should read "Therefore, the overall total quantity of wastes including small quantity generator, CERCLA, and RCRA corrective action wastes is increased to 2,878 million gal/yr for today's rule."

18. On page 40611, third column, the last sentence before the table should read "These figures do not include wastes which were deep well injected, and also do not include small quantity generator, CERCLA, or RCRA corrective action wastes."

19. On page 40611, third column, the quantity numbers in the table should be corrected as follows:

a. Disposal in surface impoundments should be "8.8"
b. Waste piles should be ".74"
c. Land application should be "0.0"
d. Landfill should be "44.74"
e. Total land disposed should be "2,848.9"

20. On page 40620, the following diagram should be substituted in place of the diagram labeled "Sequence 1: Waste Characterization":

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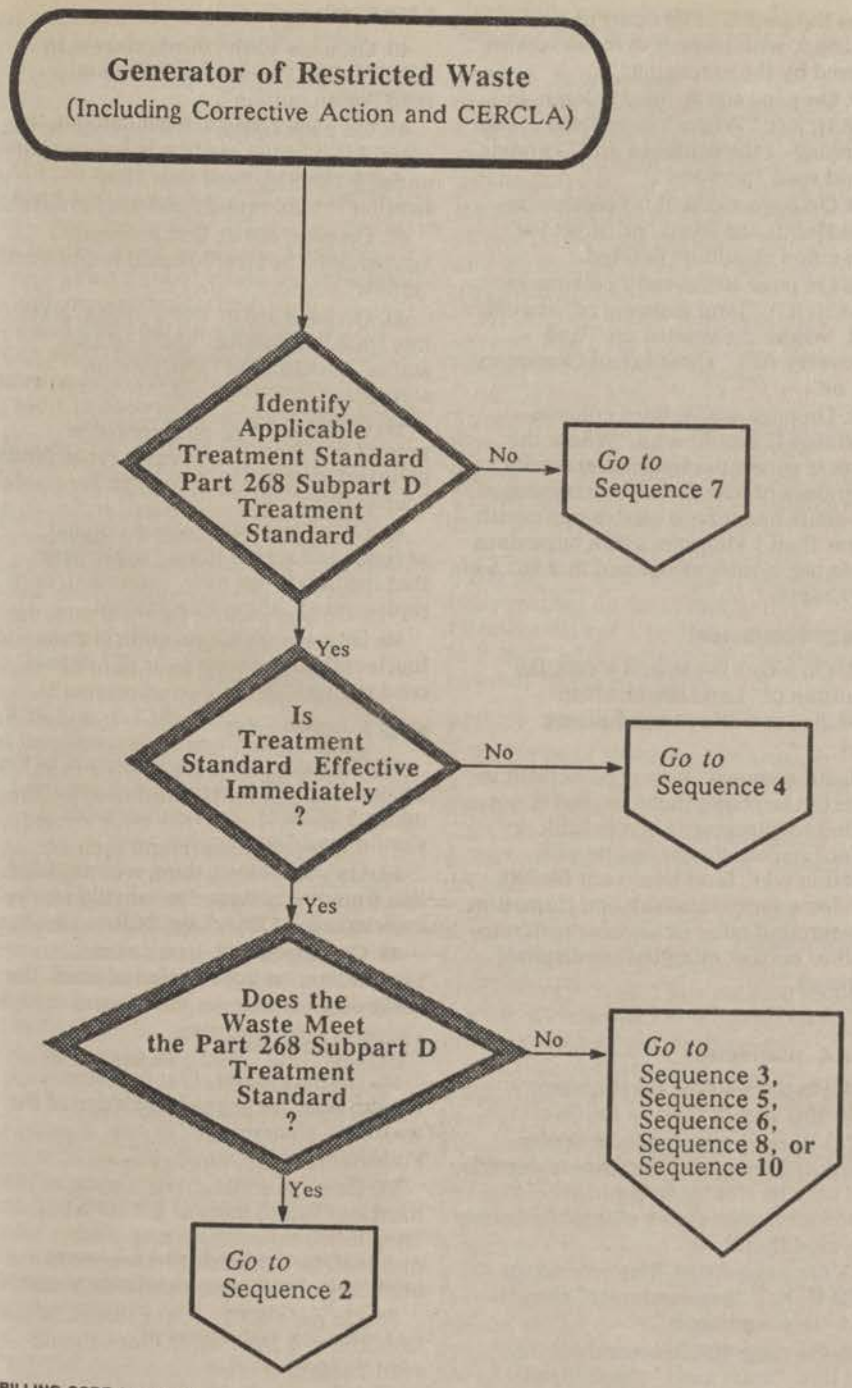

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21. On page 40620, first column, tenth through fourteenth lines after the diagram, the following sentence should be deleted: "To require otherwise would allow the generator to dilute waste in order to circumvent an effective date or otherwise alter the applicable treatment standard."

22. On page 40629, second column, the sentence beginning on the seventh line is revised by adding the following language before the period ending the sentence: "where a nationwide variance to the prohibition effective date is granted."

23. On page 40632, first column, on the ninth and tenth lines, "The generator may treat" should read "The generator's waste may be treated" and on the twentieth line, the language "unless it is exempt from these requirements pursuant to § 268.4(a)(3)" should be inserted after "requirements" but within the parenthetical reference.

The following corrections are made in the rules for SWH–FRL 3089–5, the Hazardous Waste Management System; Land Disposal Restrictions Final Rule, published in the **Federal Register** on November 7, 1986 (51 FR 40572):

§ 264.1 [Amended]

24. On page 40637, second column, Part 264 is revised by adding a new paragraph (h) to § 264.1 to read as follows:

* * * * *

(h) the requirements of this part apply to owners or operators of all facilities which treat, store, or dispose of hazardous wastes referred to in Part 268.

§ 264.13 [Corrected]

25. On page 40637, second column, fourteenth line from the bottom, "of this part of Part 268" should read "of this part and Part 268".

§ 264.73 [Corrected]

26. On page 40637, third column, in § 264.73(b)(14), "notice required undeer" should read "notice required under".

§ 265.1 [Amended]

27. On page 40638, first column, Part 265 is revised by adding a new paragraph (e) to § 265.1 to read as follows:

* * * * *

(e) The requirements of this part apply to owners or operators of all facilites which treat, store or dispose of hazardous waste referred to in Part 268.

§ 268.1 [Corrected]

28. On page 40638, third column, § 268.1(c)(1) should read "Where persons have been granted an extension to the effective date of a prohibition under Subpart C of this part or pursuant to § 268.5, with respect to those wastes covered by the extension;".

29. On page 40638, third column, in § 268.1(c)(2), "Where" is inserted at the beginning of the sentence and "Persons" should read "persons".

30. On page 40638, third column, in § 268.1(c)(2), the word "or" after the semi-colon should be deleted.

31. On page 40638, third column, in § 268.1(c)(3), "land disposal of" should read "where the wastes are" and "Recovery Act." should read "Recovery Act; or".

32. On page 40638, third column, § 268.1(c)(4) should read "Where the waste is generated by small quantity generators of less than 100 kilograms of non-acute hazardous wastes per month or less than 1 kilogram acute hazardous waste per month, as defined in § 261.5 of this chapter."

§ 268.2 [Corrected]

33. On pages 40638 and 40639, the definition of "Land disposal" in § 268.2(a) should read as follows:

(a) * * *

"Land disposal" means placement in or on the land and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or concrete vault or bunker intended for disposal purposes.

* * * * *

§ 268.4 [Corrected]

34. On page 40639, first column, § 268.4(a) should read as follows:

"(a) Wastes which are otherwise prohibited from land disposal under this part may be treated in a surface impoundment or series of impoundments provided that:"

35. On page 40639, first column, in § 268.4(a)(1), "impoundment" should read "impoundments".

36. On page 40639, second column, first line, "must meet" should read "meets".

37. On page 40639, second column, fourteenth line, "the Administrator has granted" should read "the Administrator, after notice and an opportunity to comment, has granted".

38. On page 40639, second column, in the second line of § 268.4(a)(3)(iii), "the Administrator has granted" should read "the Administrator, after notice and an opportunity to comment, has granted".

39. On page 40639, second column, in § 268.4(a)(4), "must submit" should read "submits".

§ 268.5 [Corrected]

40. On page 40639, third column, in § 268.5(a)(5), "on an outline" should read "or an outline".

41. On page 40639, third column, in the second line of the certification required under § 268.5(b), "and that I am familiar" should read "and am familiar".

42. On page 40640, first column, second line, "review" should read "renew".

43. On page 40640, first column, sixth line from the bottom, "if the interim status" should read "if in interim status".

44. On page 40640, first column, second line from the bottom, "in" should be inserted after "is" but before "compliance".

45. On page 40640, second column, seventh and eighth lines, "regardless that the unit is not new, expanded, or a replacement" should be deleted.

46. On page 40640, second column, fourteenth line, paragraph "(j)" should read paragraph "(i)".

§ 268.6 [Corrected]

47. On page 40640, third column, in the second line of the certification required under § 268.6(d), "an familiar with" should read "am familiar with".

48. On page 40640, third column, fifth line from the bottom, "to" should be inserted after "Prior" but before "the".

49. On page 40641, first column, second line, "reliveve" should read "relieve".

§ 268.7 [Corrected]

50. On page 40641, first column, twelfth line, "or using knowledge of the waste to" should read "or use knowledge of the waste, to".

51. On page 40641, first column, in the third and fourth lines of § 268.7(a)(1), "requires treatment prior to land disposal, for" should read "exceeds the applicable treatment standards, with".

52. On page 40641, first column, in the fifth line of § 268.7(a)(2), "for" should read "with".

53. On page 40641, first column, in the seventh line of the certification required under § 268.7(a)(2)(ii), "beleive" should read "believe".

54. On page 40641, first column, third line from the bottom, "a petition under § 268.6, or a nationwide" should read "an exemption under § 268.6, an extension under § 268.1(c)(3), or a nationwide".

55. On page 40641, first column, last line, "with the waste" should be inserted between "forward a notice" and "to the land disposal".

56. On page 40641, second column, after the third line, paragraph (a)(4) should be added to read as follows:

"(4) If a generator determines whether the waste is restricted based solely on his knowledge of the waste, all supporting data used to make this determination must be maintained on-site in the generator's files."

57. On page 40641, second column, paragraph (b) should read as follows:

"(b) For wastes with treatment standards expressed as concentrations in the waste extract (§ 268.41), the owner or operator of the treatment facility must test the treatment residues or an extract of such residues developed using the test method described in Appendix I of this part to assure that the treatment residues or extract meet the applicable treatment standards. Such testing must be performed according to the frequency specified in the facility's waste analysis plan as required by § 264.13 or § 265.13. Where the treatment residues do not meet the treatment standards, the treatment facility must comply with the notice requirements applicable to generators in paragraph (a)(1) of this section if the treatment residues will be further managed at a different treatment facility."

58. On page 40641, second column, sixteenth line, paragraph "(10)" should read paragraph "(1)" and "with each waste shipment" should be inserted between "must be sent" and "to the land".

59. On page 40641, second column, in § 268.7(b)(2), "for each shipment" should read "with each shipment" and "treated to the performance standards specified in Subpart D" should read "treated in compliance with the treatment standards specified in Subpart D".

60. On page 40641, second column, sixth line from the bottom, "signficant" should read "significant".

61. On page 40641, second and third columns, § 268.7(c) should read as follows:

* * * * *

"(c) The owner or operator of any land disposal facility disposing any waste subject to restrictions under this part must have records of the notice and certification specified in either paragraph (a) or (b) of this section. The owner or operator of the land disposal facility must test the waste or an extract of the waste developed using the test method described in Appendix I of this part to assure that the wastes or treatment residues are in compliance with the applicable treatment standards. Such testing must be performed according to the frequency specified in the facility's waste analysis plan as required by § 264.13 or § 265.13.

§ 268.30 [Corrected]

62. On page 40641, third column, in the first line of § 268.30(a)(3), "The solvent waste" should read "The initial generator's solvent waste" and in the third line of § 268.30(a)(3), "or solid" should be inserted between "sludge" and the comma before "or solvent-contaminated soil."

63. On page 40641, third column, seventh line from the bottom, "are treated to" should be deleted.

64. On page 40641, third column, § 268.30(c)(2) should read "Persons have been granted an exemption from a prohibition pursuant to a petition under § 268.6, with respect to those wastes and units covered by the petition; or".

65. On page 40641, third column, § 268.30(c)(3) should read "Persons have been granted an extension to the effective date of a prohibition pursuant to § 268.5, with respect to those wastes covered by the extension."

§ 268.31 [Corrected]

66. On page 40642, first column, in § 268.31(a), "F022," should be inserted between "F021," and "F023".

67. On page 40642, first column, in § 268.31(b)(1), "are treated to" should be deleted.

68. On page 40642, first column, § 268.31(b)(2) should read "Persons have been granted an exemption from a prohibition pursuant to a petition under § 268.6, with respect to those wastes and units covered by the petition; or ".

69. On page 40642, first column, § 268.31(b)(3) should read "Persons have been granted an extension from the effective date of a prohibition pursuant to § 268.5, with respect to those wastes covered by the extension."

70. On page 40642, first column, in § 268.31(c), the period after "specified in § 268.5(h)(2) should be deleted and the following language should be added to end the sentence: "and all other applicable requirements of Parts 264 and 265 of this chapter."

§ 268.41 [Corrected]

71. On page 40642, first column, in the section heading for § 268.41, "Standards" should read "standards".

72. On page 40642, first column, thirteenth line from the bottom, "extract of a waste treatment" should read "extract of a waste or waste treatment".

73. On page 40642, second column, the title of the table should read "TABLE CCWE—CONSTITUENT CONCENTRATIONS IN WASTE EXTRACT".

74. On page 40642, second column, in Table CCWE, "1,2-dichlorobenzene" should read "1,2-Dichlorobenzene".

75. On page 40642, second column, in Table CCWE, "Ethyle benzene" should read "Ethylbenzene".

76. On page 40642, second column, in TABLE CCWE, "1,2,2-Trichloro-1,2,2-trifluroethane" should read "1,1,2-Trichloro-1,2,2-Trifluoroethane".

77. On page 40642, third column, in § 268.44, paragraph (c) should be redesignated as paragraph (d), and a new paragraph (c) should be added to read as follows:

* * * * *

"(c) Each petition must include the following statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that these are significant penalties for submitting false information, including the possibility of fine and imprisonment.

§ 268.50 [Corrected]

78. On page 40642, third column, last line, "paragraph (b) of" should be deleted.

79. On page 40643, first column, fifth and sixth lines, "stores such wastes on-site" should read "stores such wastes in tanks or containers on-site".

80. On page 40643, first column, § 268.50(a)(2) is revised to read as follows:

"(2) An owner/operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks or containers solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and:

"(i) Each container is clearly marked to identify its contents and the date each period of accumulation begins;

"(ii) Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received, and the date each period of accumulation begins, or such information for each tank is recorded and maintained in the operating record at that facility. Regardless of whether the tank itself is marked, an owner/operator must comply with the operating record requirements specified in § 264.73 or § 265.73."

81. On page 40643, first column, in § 268.50(a)(3), "may store" should read "stores".

82. On page 40643, first column, in § 268.50(d), "or a nationwide variance contained in Subpart C of this part" is inserted following "petition under § 268.6" and before "or an approved."

PART 268, APPENDIX I— [CORRECTED]

83. On page 40645, in the equation below Step 7.2.3, the colon after "Percent" but before "dry solids" should be deleted.

84. On page 40645, third column, in the last line of Step 7.4.1, "of" should read "or".

85. On page 40646, first column, in the second line of Step 8.5, "110" should read "100".

86. On page 40646, second column, in the seventh line of the note to Step 8.8, "is" should be inserted after "device" but before "defined".

87. On page 40647, second column, in the third line of Step 9.2, "estraction" should read "extraction".

88. On page 40648, the equation below Step 9.11 should read as follows:

$$\text{Weight of extraction fluid} = \frac{20 \times \%\ \text{solids (Step 7.1)} \times \text{weight of waste filtered (Step 9.4 or 9.8)}}{100}$$

§ 271.1 [Corrected]

89. On page 40653, third column, in § 271.1(j), insert "November 7, 1986" in the first column of Table 1 and revise the third column of Table 1 to read "51 FR 40572."

90. On page 40654, first column, in § 271.1(j), revise the fourth column of Table 2 to read "November 7, 1986, 51 FR 40572."

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40 CFR Parts 704, 795 and 799

[OPTS-42076A; FRL-3213-5]

Anthraquinone; Final Reporting and Recordkeeping Requirements and Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing a final rule, under section 4 of the Toxic Substances Control Act (TSCA), requiring manufacturers and processors of 9,10-anthraquinone (CAS No. 84-65-1), hereinafter anthraquinone, to perform testing for water solubility, bioconcentration, sediment toxicity to benthic organisms, and acute toxicity to aquatic organisms. The Agency is also requiring annual reporting, under section 8 of TSCA, by manufacturers (including importers) of anthraquinone of the volume of this substance manufactured or imported during their latest corporate fiscal year. The rule precludes duplicative reporting during those years that industry must report under the Inventory Update Rule. Testing for biodegradation and chronic toxicity to aquatic organisms will be required if the acute toxicity, sediment toxicity, or bioconcentration test results suggest a hazard potential and the annual production/importation level reaches or exceeds 3 million pounds (lb). This rule requires the same testing as EPA's proposed rule on anthraquinone.

DATES: In accordance with 40 CFR 23.5, this rule will be promulgated for purposes of judicial review at 1 p.m. eastern ("daylight" or "standard," as appropriate) time on June 18, 1987. These regulations will become effective on July 20, 1987. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 20, 1987.

FOR FURTHER INFORMATION CONTACT: Edwin A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, DC 20460, (202-554-1404).

SUPPLEMENTARY INFORMATION: EPA is issuing a final test rule under section 4(a) of TSCA to require chemical fate and environmental effects testing of anthraquinone. Under section 8(a) EPA will also require manufacturers (including importers) to report annually to EPA the volume of anthraquinone manufactured or imported during their latest corporate fiscal year.

I. Introduction

A. Test Rule Development Under TSCA

This notice is part of the overall implementation of section 4 of TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*, 15 U.S.C. 2601 *et seq.*), which contains authority for EPA to require the development of data relevant to assessing the risk to health and the environment posed by exposure to particular chemical substances or mixtures.

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance to develop health or environmental data if the Administrator finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

For a more complete understanding of the statutory section 4 findings, the reader is directed to the Agency's first proposed test rule package published in the Federal Register of July 18, 1980 (45 FR 48510), for an in-depth discussion of the general issues applicable to this action.

B. Regulatory History

As published in the Federal Register of November 29, 1984 (49 FR 46931), the Interagency Testing Committee (ITC) designated anthraquinone for priority testing consideration and recommended chemical fate testing, including water solubility and biodegradation, and ecological effects testing, including acute toxicity to fish, aquatic invertebrates, and algae, and chronic toxicity to aquatic organisms, conditional upon results of acute tests. The Agency evaluated the ITC recommendation and on April 23, 1985 held a public meeting to announce its preliminary testing decision. Subsequent to the public meeting, Mobay Chemical Corp. submitted confidential business

information (CBI) data on the concentration of anthraquinone in waste water from the alkaline pulping process (Ref. 25). These data were considered in the drafting of the proposed test rule.

The Agency responded to the ITC's recommendations for anthraquinone by issuing, in the Federal Register of November 6, 1985 (50 FR 46090), a proposed test rule (40 CFR 799.500) and a proposed reporting and recordkeeping requirement (40 CFR 704.69, which is being redesignated as 40 CFR 704.30 in the final rule) for production and importation data. Based on section 4(a)(1)(B) of TSCA, EPA proposed tiered testing, with the first tier including water solubility; acute toxicity to chinook salmon or coho salmon, bluegill, and rainbow trout; acute toxicity to the invertebrates *Daphnia magna* or *D. pulex* and oyster; marine sediment toxicity to the amphipod, *Rhepoxynius abronius*; and oyster bioconcentration. Under section 8 of TSCA, EPA proposed that manufacturers (including importers) of anthraquinone be required to submit an annual report to EPA stating the volume of anthraquinone manufactured or imported during their latest corporate fiscal year. Also proposed under section 4(a) of TSCA was a second tier of testing which would be triggered if the results of Tier I tests indicated a hazard potential and the reported production/importation volume reached or exceeded 3 million lb per year. The second tier of tests included chronic toxicity in the most sensitive fish, chronic toxicity in *Daphnia*, biodegradability in sludge systems, and biodegradation rate.

The proposed rule contained a chemical profile of anthraquinone, a discussion of EPA's TSCA section 4(a) findings, and a description of the test substance to be used. The proposed rule also specified the test standards to be used and the reporting requirements.

II. Public Comment

Comments were submitted to the Agency by CIL, Inc., on September 19, 1985 (Ref. 1) and February 26, 1986 (Ref. 2). The first set of comments responded to materials discussed (Ref. 3) at the public meeting held on April 23, 1985 to announce the Agency's preliminary testing decision. Several of these comments are no longer relevant since the proposed testing reflected the Agency's consideration of information submitted by industry subsequent to this meeting. The comments which are still relevant to the proposed rule are addressed below. The second set of comments (Ref. 2) were submitted in response to the proposed rule and are also addressed below.

A. Increased Use of Anthraquinone

CIL commented that the increased use of anthraquinone in the pulping industry is unlikely to surpass 1.5 to 2.0 million lb for many years. CIL reasoned that there is an economic incentive to use anthraquinone primarily outside the U.S. where increased pulping capacity is needed (by improving efficiency), but capital outlay cannot be justified (Ref. 1). EPA has reexamined the use of anthraquinone in pulping operations and its original estimate that anthraquinone use could be expected to rise to 7 million lb per year. EPA now concludes that the current use level of 1 to 2 million lb per year is not likely to rise significantly in the near term (Ref. 11). Although EPA's estimate of anthraquinone's future use is not as optimistic, the Agency will still rely on a production/import trigger for second tier testing of 3 million lb per year. This level was orginally selected because environmental release was expected to become significant at this level without the cost of conditional testing posing a significant adverse economic impact on the market.

B. Biodegradation

CIL commented that anthraquinone is easily and completely biodegraded (Ref. 1), citing studies by Weston (Ref. 4) and Mobay (Ref. 5). According to CIL, the Weston study showed anthraquinone at 500 milligrams per liter (mg/L) to have a half life of 5 days with either acclimated or unacclimated seed organisms in an activated sludge biodegradation study under aerobic conditions, while the Mobay study, at an anthraquinone concentration of 2.4 mg/L, indicated a half-life in excess of 20 days (using an acclimated seed).

EPA does not find these studies adequate because they were not actually done in activated sludge biodegradation systems. Rather, inocula were provided from acclimated and unacclimated semi-continuous activated sludge (SCAS) systems for biochemical oxygen demand (BOD) tests. The BOD test is not an adequate test for determining removability in waste water treatment. It is a screening test designed to determine whether a compound is readily degraded. The BOD test is of greatest value for quantitative risk assessment if the test results indicate very rapid biodegradation or no biodegradation. When the results are at neither extreme, they are less reliable, and more sophisticated testing is needed.

The Weston study found a BOD after 5 days of 61 and 45 percent of theoretical oxygen demand in acclimated and unacclimated cultures, respectively, while Mobay found a BOD after 20 days of 40 percent and 15 percent in acclimated and unacclimated cultures. Although the Weston results indicate biodegradation could be rapid, the lack of a significant difference between the results of the acclimated versus unacclimated cultures is a result fully consistent with the BOD being exerted by the dispersant rather than anthraquinone. As a result, it is difficult to draw meaningful conclusions about anthraquinone's degradability from this study. Also, the concentration of 500 mg/L exceeds the anticipated water solubility range of anthraquinone, and although the precise effect that the physical state of an organic chemical may have on these tests is unknown, it is best to conduct them at or below the solubility limit at an environmentally relevant concentration.

The BOD tests by Mobay indicate biodegradation occurs more slowly, and the conclusions in the Mobay report regarding anthraquinone's biodegradability are reasonable. However, Mobay's findings notwithstanding, there is still a need for testing of anthraquinone at environmentally relevant concentrations to provide biodegradation rates in environmentally relevant media, i.e., surface waters and waste water treatment systems. BOD tests do not provide these data, regardless of how carefully they are done.

In a final comment on biodegradation, CIL remarked that in anaerobic digestion tests, there was no impact on the anaerobic digestion process by anthraquinone when present at levels expected to be released to the environment (Ref. 1). The Agency agrees that anthraquinone's adverse effect on anaerobic digestion does not occur unless concentrations are 10 ppm or greater (Ref. 6).

C. Aquatic Toxicity

CIL commented that the study by MacPhee and Ruelle (Ref. 7), which indicated that anthraquinone was moderately toxic, "did not use a protocol which meets the standards for rational scientific decision," casting doubt on the validity of the results. CIL was concerned specifically with excessive fish loading, oxygen depletion, and the use of acetone to maintain chemicals in solution. This screening study tested 1,888 chemicals, and the results spanned the full range of response from nontoxic to very toxic using uniform test conditions with the test chemical as the variable. EPA realizes that as a screening study the MacPhee and Ruelle study does not

provide definitive acute toxicity data. The study is useful, however, in indicating compounds that might be toxic. In the case of anthraquinone, the study indicated moderate toxicity with a 13-hour LC_{100} of 10 ppm. The species used in this study—coho salmon, chinook salmon, and squawfish—have not been tested with anthraquinone in other studies to refute these findings. Therefore, as proposed in the November 6, 1985 notice, EPA is now requiring acute toxicity tests in either coho salmon or chinook salmon to determine if anthraquinone is indeed toxic to these species.

CIL also commented that tests carried out by the Pulp and Paper Research Institute of Canada (Ref. 8) using rainbow trout showed that the addition of anthraquinone to Kraft liquors had little effect on the latter's toxicity. These tests were reviewed by EPA, but the lack of measured concentrations of anthraquinone or a description of the methodology made it difficult to determine if these tests were conducted under environmentally relevant conditions.

The study of rainbow trout which EPA will require by this rule will determine the toxicity of anthraquinone itself under defined conditions to allow EPA to fully evaluate its toxicity.

D. Water Solubility

CIL submitted a paper by Geake and Lemon (Ref. 9) which indicated a solubility limit for anthraquinone of 0.624 mg/L. EPA reviewed this paper and is not confident that 0.624 mg/L represents the true water solubility for the following reasons: (1) Concentration-time studies were not done to determine if true equilibrium saturation had been reached; (2) excess anthraquinone in the form of colloids cannot be removed by filtration but only by centrifugation. The presence of colloids would cause the solubility limit to appear to be greater than its true value; (3) the colorimetric procedure used to measure concentration had an accuracy of only ±20 percent; a more sensitive analytical procedure is needed to measure the concentration of anthraquinone in water in the range of 1 ppm or less; and (4) it appears that the temperature at which the solubility was determined was 50 °C; it should be determined at 12 °C and 22 °C, temperatures which more closely approximate the temperatures of cold and warm water bodies in the environment. Therefore, as proposed in the November 6, 1985 notice, EPA is requiring that water solubility of anthraquinone be determined by the generator column method (40 CFR 796.1860). This method eliminates the problems encountered by Geake and Lemon, i.e., in the generator column method, equilibrium is achieved rapidly, the effects of colloids are eliminated, and the solubility limit can be measured precisely down to the part per billion (ppb) range.

CIL also commented that the determination of the precise solubility level will not negate the acceptability of previous biodegradation and toxicity results from tests conducted above the solubility limit, since organisms in these tests were exposed to anthraquinone at the saturation or solubility limit. EPA, however, believes that the physical state of an organic chemical may have an effect on test results when the chemical is added to levels in excess of its solubility. As an example, the authors of a study, in which anthraquinone was used at concentrations exceeding its solubility, speculated that the observed mortality was due to undissolved anthraquinone clogging the gills of the fish rather than a toxic chemical action (Ref. 21). Therefore, EPA is requiring that tests be conducted at environmentally relevant concentrations which EPA has projected to be below the solubility limit.

CIL also commented that close derivatives, precursors or analogues of anthraquinone, such as tetrahydroanthraquinone (THAQ), anthrahydroquinone (AHQ), and 1,4-dihydro-9,10-dihydroxyanthracene (DDA), can also be used in the pulping process with effects equivalent to those of anthraquinone and with similar environmental fates (Ref. 2). CIL was concerned that the burden of conducting the proposed testing would not be equitably distributed. In the use of THAQ, AHQ, and DDA in pulping, some anthraquinone is produced, but any release to the environment would most probably be a mixture of anthraquinone, THAQ, AHQ, and DDA (Ref. 22). Such a mixture would not have the toxicity of anthraquinone alone, especially since the toxicity of THAQ, AHQ, and DDA may differ from anthraquinone due to their greater solubility in water. Also, the Agency has no evidence that THAQ, AHQ, and DDA are currently being used in the U.S., even though they can be substituted for anthraquinone in the pulping process and may be more efficacious due to their greater solubility (Ref. 22).

For the above reasons, the Agency has decided not to make the manufacturers of THAQ, AHQ, and DDA subject to this rule at this time; the Agency plans to further evaluate the extent of use of alternatives and the need for their testing.

III. Final Test Rule for Anthraquinone

A. Findings

EPA is basing its final testing requirements for anthraquinone on the authority of section 4(a)(1)(B) of TSCA. Existing data indicate that anthraquinone is or will be imported in substantial quantities and that substantial environmental release may be reasonably anticipated to occur. Annual imports of anthraquinone are 813,000 lb (Ref. 10) and could rise in the future. Discharge data from one wood pulping plant using anthraquinone as a catalyst show that the plant is currently releasing effluents with anthraquinone concentrations in the upper part per billion to lower part per million range. There are approximately 100 pulping plants in the U.S. that could potentially use anthraquinone in their processing (Ref. 12). If this use of anthraquinone increases, such releases could become widespread.

EPA also finds that the data now available are insufficient to reasonably determine or predict the chemical fate and environmental effects of releases from the use, processing, and disposal of anthraquinone.

There is also no acceptable measured value for anthraquinone's solubility in water, and the reported values of 0.05 mg/L (Ref. 13) and 0.5 mg/L (Ref. 4) are not supported by data. A third value for water solubility is EPA's estimate of 0.3 mg/L (Ref. 14). The Agency finds that the water solubility of anthraquinone must be determined to enable the proper design of other studies.

The Agency finds that the biodegradation studies submitted by CIL, Inc. (Ref. 4) and Mobay Chemical Corp. (Ref. 5) are, as BOD tests, not adequate for determining removability in waste water treatment. Additionally, these tests were conducted at concentrations exceeding the anticipated water solubility range of anthraquinone, and presented a half-life range (5 days and greater than 20 days) too broad to reasonably predict anthraquinone's persistence in the environment. This broad range is particularly unsatisfactory since the typical waste treatment residence times for the dye and pulp industries are 6 and 8 days, respectively (Refs. 15 and 16). Also, as stated in Unit II. of this preamble, the BOD in the Weston study may have been exerted by the dispersant rather than anthraquinone. The Agency also finds that the submitted studies are not necessarily relevant to assessing biodegradation by microbial populations in natural waters, which possess a different array of

microbial communities and physical and chemical characteristics than waste treatment systems.

With regard to the release and chemical fate information presented in the proposed rule, EPA expects that potential exposure to anthraquinone will be greatest for fish, aquatic invertebrates, and benthic organisms. EPA finds that there are no toxicity or bioconcentration data on benthic organisms and no chronic effects data on fish and aquatic invertebrates.

After reviewing and evaluating the existing acute toxicity data for aquatic organisms experimentally exposed to anthraquinone, EPA has determined that additional data are necessary to determine whether salmonids are sensitive as suggested by the MacPhee and Ruelle study (Ref. 7). EPA also finds that additional acute toxicity studies of fish and aquatic invertebrates are necessary since the existing studies were done at concentrations exceeding the anticipated water solubility range of anthraquinone.

EPA finds that sufficient data are available from the study done by Chillingworth (Ref. 17) to reasonably predict anthraquinone's toxicity to algae.

Finally, EPA finds that testing is necessary to develop the chemical fate and environmental effects data described above. EPA believes that the data resulting from this testing will be relevant to a determination as to whether the manufacture, processing, or use of anthraquinone does or does not present an unreasonable risk of injury to the environment.

B. Required Testing and Test Standards

On the basis of these findings, the Agency is requiring that chemical fate and environmental effects testing be conducted on anthraquinone in accordance with EPA's TSCA Good Laboratory Practice standards in 40 CFR Part 792 and specific test guidelines set forth in Title 40 of the Code of Federal Regulations or other published test methods as enumerated below. Test methods under Parts 796 and 797 were published in the **Federal Register** of September 27, 1985 (50 FR 39252); proposed revisions were published in the **Federal Register** of January 14, 1986 (51 FR 1522) and final revisions were published in the **Federal Register** of May 20, 1987 (52 FR 19056).

In view of the prospect for a growing market for anthraquinone owing to its use in the pulping industry and the projected economic impact (see section IV. of this preamble, Economic Analysis of Test Rule) of the full set of aquatic tests EPA believes would be necessary to adequately assess the environmental risks of anthraquinone, the Agency is requiring that testing be conducted in two tiers. By tiering testing, EPA expects to obtain limited data now from the first tier to better assess the potential for expanded releases of anthraquinone to pose significant risks. Should the production or importation of anthraquinone expand substantially and the results of the first tier of testing meet the specified triggers, the second tier of testing will provide the more complete data needed to evaluate the possible risks associated with substantially larger aquatic releases of the chemical.

EPA is requiring that the first tier testing of anthraquinone be conducted now to determine (1) the water solubility to properly design the subsequent required tests, using the TSCA guideline entitled "Water Solubility, Generator Column Method" as specified in § 796.1860; the solubility shall be determined at 12 °C and 22 °C as allowed under § 796.1860(b)(3) because of the temperature requirements for fish acute toxicity tests of cold and warm water species under § 797.1400(d)(3)(iii); (2) the acute toxicity to chinook salmon, *Oncorhynchus tshawytscha*, or coho salmon, *Oncorhynchus kisutch* (cold water species); bluegill, *Lepomis macrochirus* (warm water species); and rainbow trout, *Salmo gairdneri* (cold water species), using the TSCA guideline entitled "Fish acute toxicity test" as specified in § 797.1400 as modified; (3) the acute toxicity to the invertebrates *Daphnia magna* or *D. pulex*, and oyster, *Crassostrea virginica*, using the TSCA guidelines entitled "Daphnid acute toxicity test" as specified in § 797.1300 and as modified and "Oyster acute toxicity test" as specified in § 797.1800 as modified; (4) the sediment toxicity to either the marine amphipod, *Rhepoxynius abronius*, according to the method of R.C. Swartz et al., "Phoxocephalid Amphipod Bioassay for Marine Sediment Toxicity", published in the American Society for Testing and Materials Special Technical Publication 854 (ASTM STP 854), R. D. Caldwell et al. (eds.) (Ref. 18) or the freshwater midge, *Chironomus tetans*, according to the method of W.J. Adams et al., "Aquatic safety assessments of chemicals sorbed to sediments", also published in ASTM STP 854 (Ref. 23); and (5) bioconcentration in oyster, *Crassostrea virginica*, using the TSCA guideline entitled "Oyster bioconcentration test" as specified in § 797.1830 as modified.

EPA is allowing industry a choice of either of the two above-referenced sediment toxicity tests because the Agency wishes to allow the manufacturers of anthraquinone the opportunity to conduct this testing using the species and methods required in other section 4 test rules concurrently under development or published. It also allows industry to select a species that is more representative of the streams and waters receiving effluents from pulping plants and a species that may be more available for testing.

In order to evaluate the potential hazard of the median lethal concentrations (LC50's) generated by the Tier I tests, EPA is requiring that the LC50's be compared to the predicted environmental concentrations (PEC's) for anthraquinone in water and sediment, i.e., 5 ppb and 0.1 ppm respectively, which have been determined from reported discharge levels (see the proposed rule).

EPA is also requiring that a second tier of tests shall be conducted if two triggers are met—a hazard trigger and a production/import level trigger. The hazard trigger will be met if one or more of the median lethal concentrations (LC50's) generated by the Tier I tests are less than 100 times the predicted environmental concentrations. The production/import level trigger will be met when annual production/import levels reach 3 million lb. EPA will require annual reporting under section 8(a) to monitor the production/import levels of anthraquinone, and will notify industry if the production/import trigger is met.

If both triggers are met, EPA is requiring that selection of the Tier II tests be based on the results of the Tier I tests as follows. If the most sensitive fish, i.e., the fish with the lowest LC50 as determined by the above-required acute toxicity tests, has an LC50 less than 100 times the predicted environmental concentration (PEC) for water (i.e., less than 500 ppb), testing of anthraquinone shall be conducted to determine the chronic toxicity to the most sensitive fish, using the TSCA guideline entitled "Fish early life stage toxicity test" as specified in § 797.1600 as modified. If the daphnid has a median effective concentration (EC50) as determined by the above required acute toxicity test which is less than 100 times the PEC for water (i.e., less than 500 ppb), testing of anthraquinone shall be conducted to determine the chronic toxicity to daphnids, using the TSCA guideline entitled "Daphnid chronic toxicity test" as specified in § 797.1330 as modified.

The required partial life cycle testing of either *Rhepoxynius* or *Chironomus* will provide data on sensitive life stages of benthic invertebrates. Current state of

the art in benthic invertebrate testing has not progressed to allow full chronic testing.

If the LC50 for the most sensitive fish, or the EC50 for the daphnid or oyster, is less than 100 times the PEC in water (i.e., less than 500 ppb), or if the LC50 for *Rhepoxynius* or *Chironomus* in the sediment toxicity test is less than 100 times the PEC in sediment (i.e., less than 10 ppm), or if the oyster bioconcentration factor is greater than 3,000, then EPA is requiring that testing of anthraquinone shall be conducted to determine (1) the biodegradability in activated sludge systems, using the test method entitled "Inherent biodegradability: Modified SCAS (semi-continuous activitated sludge) test for chemical substances that are water insoluble or water insoluble and volatile" as specified in § 795.45 (originally proposed under § 796.3341 (see 50 FR 46793; Nov. 13, 1985)) and (2) biodegradation rate using the protocol described in a study by Bourquin et al. (Ref. 19).

EPA chose to trigger second tier testing with an increase in production/import level for two reasons. First, as the use of anthraquinone increases, the Agency's concerns for environmental release and the potential for unreasonable risk to the environment increase. Under such conditions, the need for further testing to fully characterize the hazard potential and chemical fate of anthraquinone becomes essential. If the data developed in the first tier of testing do not meet at least one of the hazard triggers described above, there would be no potential to trigger further testing and thus no need for continued section 8(a) reporting; EPA then would remove the section 8(a) reporting requirement and publish a notice of such action in the **Federal Register**.

However, if these data suggest concern and if anthraquinone use continued to increase to 3 million lb per year, the second tier of testing is considered essential. EPA also chose a production/import level of 3 million lb per year because it represents substantial market growth of the chemical over current levels and a level at which EPA's analysis indicates the second-tier tests will not cause an adverse economic impact (See section IV. of this preamble, Economic Analysis of Test Rule). The section 8(a) reports will be the means to determine when the 3-million lb trigger is met.

The Agency is requiring that the above-referenced TSCA Chemical Fate and Environmental Effects Test Guidelines as revised elsewhere in this issue of the **Federal Register** and other cited methods be considered the test standards for the purposes of the required tests for anthraquinone. The proposed test rule for anthraquinone specified that the revisions to the guidelines proposed in the January 14, 1986 issue of the **Federal Register** (51 FR 1522) would be applicable to this rule. EPA proposed revisions to the TSCA test guidelines to provide more explicit guidance on the necessary minimum elements for each study and to avoid repetitive chemical-by-chemical changes to the guidelines in their adoption as test standards for chemical-specific test rules. The guideline revisions published in the **Federal Register** of May 20, 1987 (52 FR 19056), for tests included in this final rule are adopted in the test standards for the testing of anthraquinone. EPA has responded to comments concerning these guidelines in the record for that rulemaking (Ref. 24). These final revisions apply to the test standards for anthraquinone. The TSCA guidelines for chemical fate and aquatic toxicity testing specify generally accepted minimal conditions for determining chemical fate and aquatic animal toxicities for substances like anthraquinone to which aquatic life is expected to be exposed. The Agency believes that the conduct of the required studies in accordance with these test standards is necessary to assure that the results are reliable and adequate.

The Agency's review of the guidelines, which occurs on a yearly basis as described in the **Federal Register** of September 22, 1982 (47 FR 41857), has found no reason to conclude that these guidelines generally need to be modified significantly. However, several chemical-specific modifications were deemed necessary to ensure that the test concentrations are environmentally relevant and are adequately maintained throughout the duration of the test. These modifications are specified in § 799.500, which follows this preamble.

Additionally, the American Society for Testing and Materials (ASTM) guidelines (Refs. 18 and 23) and the test procedures employed by Bourquin et al. (Ref. 19) specify, in EPA's judgment, minimum test conditions and practices for acceptable investigations of anthraquinone's toxicity in sediment to marine amphipod and freshwater midge, and rate of biodegradation. Although the Agency has not issued TSCA testing guidelines for benthic invertebrates or biodegradation rate, the testing procedures found in these references reflect the current state of the art for such testing and are being required for testing anthraquinone's toxicity to benthic invertebrates and biodegradation rate.

C. Test Substance

EPA is requiring that 9,10-anthraquinone of at least 99 percent purity be used as the test substance. Anthraquinone of this purity is commercially available at nominal cost (Ref. 20). EPA has specified a highly pure substance for testing because the Agency is interested in evaluating the effects attributable to anthraquinone itself.

D. Persons Subject to the Rule

1. *Persons required to test.* Section 4(b)(3)(B) of TSCA specifies that the activities for which the EPA makes section 4(a) findings (manufacture, processing, distribution, use, and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal.

Because EPA has found that existing data are inadequate to assess the chemical fate and environmental toxicity of anthraquinone entering the environment as a result of the processing, use, and disposal of this chemical, EPA is requiring that persons who manufacture and/or process, or who intend to manufacture and/or process, anthraquinone at any time from the effective date of this final test rule to the end of the reimbursement period are subject to the testing requirements contained in this final rule. The end of the reimbursement period will be 5 years after the last final report is submitted or an amount of time equal to that which was required to develop data, if more than 5 years, after the submission of the last final report required under the test rule.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from the requirement. EPA promulgated procedures for applying for TSCA section 4(c) exemptions in 40 CFR Part 790.

Manufacturers (including importers) subject to this rule are required to submit either a letter of intent to perform testing or an exemption application within 30 days after the effective date of the final test rule. The required procedures for submitting such letters and applications are described in 40 CFR Part 790.

Processors subject to this rule, unless they are also manufacturers, will not be required to submit letters of intent or exemption applications, or to conduct testing, unless manufacturers fail to submit notices of intent to test or later fail to sponsor the required tests. The Agency expects that the manufacturers will pass an appropriate portion of the costs of testing on to processors through the pricing of their products or reimbursement mechanism. If manufacturers perform all the required tests, processors will be granted exemptions automatically. If manufacturers fail to submit notices of intent to test or fail to sponsor all the required tests, the Agency will publish a separate notice in the **Federal Register** to notify processors to respond. This procedure is described in 40 CFR Part 790.

EPA is not requiring the submission of equivalence data as a condition for exemption from the required testing for anthraquinone. As noted in Unit III.C. above, EPA is interested in evaluating the effects attributable to anthraquinone and has specified a relatively pure substance for testing.

Manufacturers and processors subject to this test rule must comply with the test rule development and exemption procedures in 40 CFR Part 790 for single-phase rulemaking.

2. *Persons required to submit production and import information.* Persons (other than small manufacturers and importers) who manufacture or import anthraquinone after the effective date of this final rule will be required to submit section 8(a) data under this rule. Although TSCA section 8(a)(3)(A)(ii) would allow EPA to require reporting by small manufacturers and small importers of anthraquinone (because anthraquinone is concurrently being made subject to a section 4 rule), EPA has determined that such reporting is not necessary to achieve the purposes of this rule.

E. Reporting Requirements

1. *Under section 4.* EPA is requiring that all data developed under this rule be reported in accordance with its TSCA Good Laboratory Practice (GLP) standards, which appear in 40 CFR Part 792.

In accordance with 40 CFR Part 790 under single-phase rulemaking procedures, test sponsors are required to submit individual study plans within 45 days before initiation of each study.

Subsequent to the issuance of the proposed test rule for anthraquinone, the Agency decided that interim reports for the testing required for substances under section 4 of TSCA should be submitted at 6-month intervals, rather than at 3-month intervals, which will be sufficient to keep EPA informed of the current status of required testing and of any difficulties which the testing facility may encounter during the course of testing. In addition, this change will lessen the reporting burden on test sponsors. Accordingly, the final reporting requirements for the testing required for anthraquinone reflect a requirement for 6-month, rather than 3-month, interim testing reports.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. Specific reporting requirements for each of the final test standards follow:

a. The water solubility and acute toxicity tests shall be completed and the final results submitted to EPA within 1 year of the effective date of the final test rule. An interim progress report shall be provided 6 months from the effective date of this rule.

b. The oyster bioconcentration test shall be completed and the final results submitted to EPA within 18 months of the effective date of the final test rule. Interim progress reports shall be provided at 6 months and 12 months from the effective date of this rule.

c. The sediment toxicity test shall be completed and the final results submitted to EPA within 2 years of the effective date of the final test rule. Interim progress reports shall be provided at 6 months, 12 months, and 18 months from the effective date of this rule. The allotted time to complete this test was extended from 18 months to 2 years to be consistent with other section 4 rules.

d. The fish and daphnid chronic toxicity tests shall be completed and the final results submitted to the Agency within 2 years of the date that EPA publishes a **Federal Register** notice or notifies the test sponsor by certified letter that production/imports have reached 3 million lb per year and Tier I test results necessary to trigger chronic aquatic toxicity testing were obtained. If this testing is triggered, interim progress reports shall be provided at 6 months, 12 months, and 18 months from the date of publication of the **Federal Register** notice or receipt of notification. The allotted time to complete these tests was extended from 1 year to 2 years to be consistent with other section 4 rules.

e. The biodegradability in activated sludge and biodegradation rate tests shall be completed and the final results submitted to EPA within 1 year of the date that EPA publishes a **Federal Register** notice or notifies the test sponsor by certified letter that production/imports have reached 3 million lb per year if those criteria necessary to trigger biodegradation testing are met. If this testing is triggered, an interim progress report shall be provided 6 months from the date of publication of the **Federal Register** notice or receipt of notification.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

Persons who export a chemical substance or mixture which is subject to a section 4 test rule are subject to the export reporting requirements of section 12(b) of TSCA. Final regulations interpreting the requirements of section 12(b) are in 40 CFR Part 707 (December 16, 1980; 45 FR 82844). In brief, as of the effective date of this test rule, an exporter of anthraquinone must report to EPA the first annual export or intended export of anthraquinone to any one country. EPA will notify the foreign country concerning the test rule for the chemical.

2. *Under section 8.* Any person who manufactures or imports anthraquinone (other than small manufacturers and importers) after the effective date of this rule must submit a report 60 days after the conclusion of their corporate fiscal year in which they manufactured or imported anthraquinone.

Any person who manufactures or imports anthraquinone (other than small manufacturers and importers) in a year following that for which an initial report was submitted must submit a new report for each corporate fiscal year in which he/she manufactures or imports the named substance. This report is due 60 days after the conclusion of their corporate fiscal year in which they manufactured or imported anthraquinone.

The report must contain the following information:

(1) Company name and address.

(2) Name, address, and telephone number of the principal technical contact.

(3) The quantity (by weight) of anthraquinone manufactured or

imported during the latest corporate fiscal year.

If this report is submitted within the year preceding the start of a reporting period under the Inventory Update Rule, the submitter will not be required to report the same information again for that reporting period. The details of this exemption are set forth in 40 CFR 710.35.

F. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule or a section 8 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any regulation or rule issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce * * *." The Agency considers a testing facility to be a place where the chemical is held or stored and, therefore, subject to inspection. Laboratory inspections and data audits will be conducted periodically in accordance with the authority and procedures outlined in TSCA section 11 by duly designated representatives of the EPA for the purpose of determining compliance with any final rule for anthraquinone. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, and that reports accurately reflect the underlying raw data and interpretations, and evaluations to determine compliance with TSCA GLP standards and the test standards established in the rule.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of the TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and to include such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties which may be calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers that fail to submit a letter of intent or an exemption request and that continue manufacturing after the deadlines for submissions. This provision would also apply to processors that fail to submit a letter of intent or an exemption application and continue processing after the Agency has notified them of their obligation to submit such documents (see 40 CFR 790.48(b)). Intentional violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator, as well as all other factors listed in TSCA section 16. Other remedies are available to EPA under section 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

IV. Economic Analysis of Final Test Rule

To assess the potential economic impact of this rule, EPA has prepared an economic analysis (Ref. 11) that evaluates the potential for significant economic impacts on the industry as a result of the required testing. The economic analysis estimates the costs of conducting the required testing and evaluates the potential for significant adverse economic impact as a result of these test costs by examining four market characteristics of anthraquinone: (1) Price sensitivity of demand, (2) industry cost characteristics, (3) industry structure, and (4) market expectations. If there is no indication of adverse effect, no further economic analysis is performed; however, if the first level of analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis is conducted which more precisely predicts the magnitude and distribution of the expected impact.

Total testing costs for the first tier of testing specified in the final rule for anthraquinone are estimated to range from $51,600 to $68,500. The cost of performing the alternative sediment toxicity test using *Chironomus* will be comparable to the cost of testing *Rhepoxynius*. Any slight difference will not substantially affect the economic impact of this rule. The total costs for the second tier of testing are estimated to range from $95,600 to $124,300. In order to predict the financial decision-making practices of manufacturing firms, these costs have been annualized. Annualized costs are compared with annual revenue as an indication of potential impact. The annualized costs represent equivalent constant costs which would have to be recouped each year of the payback period in order to finance the testing expenditure in the first year.

The annualized costs of the mandatory minimum (tier I) tests (using a cost of capital of 25 percent over a period of 15 years) range from $13,400 to $17,800. Based on an estimated minimum annual importation level of one million pounds, the unit test costs will range from 1.34 to 1.8 cents per pound. In relation to a selling price of $2.25 per pound for anthraquinone, these costs are equivalent to 0.58 to 0.8 percent of price.

The annualized costs of the conditional (tier II) tests range from $24,800 to $32,200. When production/imports reach 3 million pounds per year, the unit test costs of the tier II tests will be from 0.83 to 1.07 cents per pound. In relation to the current selling price, the combined tier I and tier II unit costs (2.1 to 2.9 cents per pound) are equivalent to 0.93 to 1.3 percent of price.

EPA estimates that the cost of preparing and submitting the section 8(a) report will be minimal. Small manufacturers and importers are exempt from reporting, and there is no official form to be completed. A company may submit the information in whatever manner it finds appropriate. A company's cost of reporting under the rule will be a function of the cost of labor for those doing the reporting and the number of hours it takes for them to comply. EPA estimates that the direct filing cost for the section 8(a) report ranges from $150 to $500.

Based on these costs and the uses of anthraquinone, the economic analysis indicates that the potential for significant adverse economic impact as a result of this testing rule is low. This conclusion is based on the low estimated unit test costs. Refer to the economic analysis for a complete discussion of test cost estimation and the potential for economic impact resulting from these costs.

V. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules. Copies of the study, Chemical Testing Industry: Profile of Toxicological Testing, can be obtained through the NTIS (PB 82–140773). On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing in this rule.

VI. Rulemaking Record

EPA has established a public record for this rulemaking proceeding [docket number OPTS–42076A]. This record includes:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice containing the ITC designation of anthraquinone to the Priority List (49 FR 46931; November 29, 1984).

(b) Rules requiring TSCA section 8 (a) and (d) reporting on anthraquinone (49 FR 46739, 49 FR 46741; November 28, 1984).

(c) Notice of EPA's proposed test rule on anthraquinone (50 FR 46090; November 6, 1985).

(d) Notice containing TSCA test guidelines cited as test standards for this rule [52 FR 19056; May 20, 1987).

(e) Notice of TSCA test guidelines revisions (51 FR 1522; January 14, 1986).

(f) Notice of final rulemaking on data reimbursement (48 FR 31786; July 11, 1983).

(g) Notice of interim final rule on single-phase test rule development and exemption procedures (50 FR 20652; May 17, 1985).

(h) TSCA GLP standards (48 FR 53922; Nov. 29, 1983).

(2) Anthraquinone economic analysis.

(3) Communications after proposal consisting of:

(a) Written public comments and letters.

(b) Contact reports of telephone conversations.

(4) Reports—published and unpublished factual materials.

B. References

(1) CIL, Inc., North York, Ontario, Canada. Comments on anthraquinone public meeting of April 23, 1985. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC 20460. (September 19, 1985).

(2) CIL, Inc., North York, Ontario, Canada. Comments on proposed test rule for anthraquinone. Submitted to the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC 20460. (February 26, 1986).

(3) Handout at anthraquinone public meeting. (April 23, 1985).

(4) Roy F. Weston, Inc., West Chester, PA 19380. "Environmental testing programs for anthraquinone. Section 3. Biodegradability testing." (April 1980).

(5) Mobay Chemical Corporation, Industrial Chemicals Division, Pittsburgh, PA 15205. Letter from Bruce Burba of Mobay Chemical Corp. to Dr. Richard Schauer of ICI United States, Inc., Wilmington, DE 19897. (October 26, 1978).

(6) Roy F. Weston, Inc., West Chester, PA 19380. "Environmental testing programs for anthraquinone. Section 4. Impact of anthraquinone on anaerobic digesters." (April 1980).

(7) MacPhee, C. and Ruelle, R. "Lethal effects of 1,888 chemicals upon four species of fish from western North America." Forest Wildlife and Range Experiment Station. Moscow, ID. Univ. of Idaho. (November 1969).

(8) Pulp and Paper Research Institute of Canada, Pointe Claire, PQ, Canada. Letter from J.M. MacLeod to Dr. H.H. Holton, CIL Chemicals, Montreal, Quebec, Canada. (November 29, 1977).

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(10) USITC. U.S. International Trade Commission. Imports of Benzenoid Chemicals and Products, 1983. Publication No. 1548, Washington, DC U.S. Government Printing Office. (1984).

(11) USEPA. U.S. Environmental Protection Agency. Economics and Technology Division. "Economic evaluation of final test rule for anthraquinone." (September 26, 1986).

(12) Denit, J.D., Dellinger, R.W., and W.D. Smith. "Development Document for Effluent Limitations Guidelines New Source Performance Standards and Pretreatment Standards for the Pulp, Paper and Paperboard and the Builders' Paper and Board Mills Point Source Categories", USEPA. (October 1982).

(13) ICI Americas, Inc., Wilmington, DE 19897. Indirect Food Additive Petition for the use of 9,10-anthraquinone as a pulping processing aid. Volume I. Section H. Submitted to Food and Drug Administration. (August 9, 1978).

(14) USEPA. U.S. Environmental Protection Agency. "Chemical property and environmental behavior estimates for chemicals on the 15th ITC priority list." Intra-agency memo from Pat Harrigan, EED, to Jeff Davidson, TRDB. (November 29, 1984).

(15) Games, L.M. and Hites, R.A. "Composition, treatment efficiency, and environmental significance of dye manufacturing effluents." *Analytical Chemistry*. 49 :433–440. (1977).

(16) Zanella, E.F., McKelvey, R.D., and Joyce, T.W. "Effect of anthraquinone on toxicity and treatability of bleached kraft pulp mill effluents." *Tappi* 62(2):65–67. (1979).

(17) Chillingworth, M.A. "The toxicity of aminoanthraquinone dyes to fish and algae." In: Dyes and the Environment. American Dye Manufacturers Institute, Inc. (1974). As reported at 49 FR 46937; November 29, 1984.

(18) Swartz, R.C., DeBen, W.A., Jones, J.K.P., Lambertson, J.O., and Cole, F.A. "Phoxocephalid amphipod bioassay for marine sediment toxicity." In: Aquatic Toxicology and Hazard Assessment: Seventh Symposium, ASTM STP 854. R.D. Caldwell, R. Purdy, and R.C. Bahner, Eds., American Society for Testing and Materials, Philadephia, pp. 284–307 (1985).

(19) Bourquin, A.W., Hood, M.A., and Garnas, R.L. "An artificial microbial ecosystem for determining effects and fate of toxicants in a saltmarsh environment." Ch. 11 in Vol. 18 of Developments in Industrial Microbiology. Published by the Society for Industrial Microbiology. (1977).

(20) Chemical Marketing Reporter, pg. 13. (Oct. 1, 1984).

(21) Roy F. Weston, Inc., West Chester, PA 19380. "Environmental testing programs for anthraquinone. Section 8. Acute toxicity to fish." (April 1980).

(22) Syracuse Research Corporation, Merrill Lane, Syracuse, New York 13210. "Anthraquinone Derivatives." Technical Support Document. (October 24, 1986).

(23) Adams, W.J., Kimerle, R.A., and Mosher, R.G., "Aquatic safety assessment of chemicals sorbed to sediments." In: Aquatic Toxicology and Hazard Assessment: Seventh Symposium, ASTM STP 854. R.D. Caldwell, R. Purdy, and R.C. Bahner, Eds., American Society for Testing and Materials, Philadelphia, PA, pp. 429–453 (1985).

(24) USEPA. "Response to Public Comments, Proposed Revision of TSCA Test Guidelines as published in 51 FR 1522 (January 14, 1986)". Test Rules Development Branch, Existing Chemicals Assessment Division, Office of Toxic Substances, Environmental Protection Agency, Washington, D.C. (January 1987).

(25) USEPA. U.S. Environmental Protection Agency. "Anthraquinone concentrations in water columns and bottom sediments of receiving streams as a result of its use in pulping." Intraagency memo from Nancy Chiu, Modeling Section, Design and Development Branch, Exposure Evaluation Division, to Catherine Roman, TRDB. Non-CBI version. July 25, 1985.

The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Rm. NE–G004, 401 M St., SW., Washington, DC 20460.

VII. Other Regulatory Requirements

A. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order; i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprise to compete with foreign enterprises.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA, and any EPA response to those comments, are included in the rulemaking record.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule will not have a significant impact on a substantial number of small businesses because: (1) They are not likely to perform testing themselves, or to participate in the organization of the testing effort; (2) they will experience only very minor costs, if any, in securing exemption from testing requirements; (3) they are unlikely to be affected by reimbursement requirements; and (4) they are exempt from the section 8(a) reporting requirements.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this final rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control numbers 2070–0033 and 2070–0067.

List of Subjects in 40 CFR Parts 704, 795 and 799

Testing, Environmental protection, Hazardous substances, Chemicals, Reporting and recordkeeping requirements, Incorporation by reference.

Dated: May 22, 1987.

Victor J. Kimm,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR Chapter I is amended as follows:

PART 704—[AMENDED]

1. Part 704 is amended as follows:

a. The authority citation for Part 704 continues to read as follows:

Authority: 15 U.S.C. 2607.

b. By adding § 704.30 to read as follows:

§ 704.30 Anthraquinone.

(a) *Substance for which reporting is required.* The chemical substance for which reporting is required under this section is 9,10-anthraquinone (Chemical Abstract Service Registry Number 84–65–1).

(b) *Persons who must report.* Unless exempt as provided in § 704.5, persons (other than small manufacturers and importers) who manufacture or import 9,10-anthraquinone for commercial purposes after July 20, 1987 are subject to the reporting requirements of this section. Persons may be required to report more than once in response to this section.

(c) *When to report.* Persons described in paragraph (b) of this section must submit a report within 60 days of the completion of every corporate fiscal year during which they manufactured or imported 9,10-anthraquinone after July 20, 1987. Persons must submit a separate report for each corporate fiscal year in which they are subject to this section.

(d) *What information to report.* All persons subject to this section shall report the following information to EPA.

(1) Company name and headquarters address.

(2) Name, address, and telephone number (including area code) of the company's principal technical contact.

(3) The quantity (in pounds) of 9,10-anthraquinone manufactured or imported during the person's latest complete corporate fiscal year.

(e) *Where to send reports.* Reports must be submitted by certified mail to the Document Control Office, Environmental Protection Agency, TS–790, 401 M St., SW., Washington, DC 20460. Attn: TSCA 8(a).

PART 795—[AMENDED]

2. Part 795 is amended as follows:

a. The authority citation for Part 795 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. By adding a new Subpart B consisting at this time of § 795.45 to read as follows:

Subpart B—Provisional Chemical Fate Guidelines

§ 795.45 Inherent biodegradability: Modified SCAS test for chemical substances that are water insoluble or water insoluble and volatile.

(a) *Introductory information*—(1) *Prerequisites.* (i) Water solubility of the test chemical must be established.

(ii) The organic carbon content of the test chemical must be established.

(2) *Guidance information.* (i) Information on the relative proportions of the major components of the test chemical will be useful in interpreting the results obtained.

(ii) Information on the toxicity of the chemical may be useful to the interpretation of low results and in the selection of appropriate test concentrations.

(3) *Standard documents.* This Test Guideline has been based on the papers cited under paragraph (d) (1) and (2) of this section.

(b) *Method*—(1) *Introduction, purpose, scope, relevance, application and limits of test*—(i) *The method.* (A) The method is an adaptation of the Soap and Detergent Association Semi-Continuous Activated Sludge (SCAS) procedure for assessing the primary biodegradation of alkylbenzene sulphonate. The method involves exposure of the chemical to relatively high concentrations of microorganisms over a long time period (possibly several months). The viability of the microorganisms is maintained over this period by daily addition of a settled sewage feed.

(B) Since the conditions provided by the test are highly favorable to the selection and/or adaptation of microorganisms capable of degrading the test chemical, the procedure may also be used to produce microbial inocula adapted to selected chemicals for use in other tests. The test is applicable to organic chemicals that are water insoluble or water insoluble and volatile and that are not inhibitory to bacteria at the test concentration.

(ii) *Reference chemicals.* In some cases when investigating a new chemical, reference chemicals may be useful; however, specific reference chemicals cannot yet be recommended. Data on several chemicals used in interlaboratory tests are provided (see Table 1 in this paragraph) primarily so that calibration of the method may be performed from time to time and to permit comparison of results when another method is employed.

TABLE 1.—EXAMPLES OF RESULTS OF SCAS TEST ON VARIOUS CHEMICALS USED IN THE OECD/EEC INTERLABORATORY TEST

Test chemical	O_T (mg/l)	O_t-O_c (mg/l)	Percentage biodegradation bioelimination
14-Acetylaminobenzene sulphonate	17.2	2.0	85
Tetrapropyleneben-zene sulphonate	17.3	8.4	51.4
4-Nitrophenol	16.9	0.8	95.3
Diethylene glycol	16.5	0.2	98.8
Aniline	16.9	1.7	95.9
Cyclopentane tetracarboxylate	17.9	3.2	81.1

Duration of test is 40 days, except 120 days for cyclopentane tetracarboxylate.

(iii) *Principle of the test method.* (A) Activated sludge from a sewage treatment plant is placed in an aeration (SCAS) unit. The test chemical and settled domestic sewage are added, and the mixture is aerated for 23 hours. The aeration is then stopped, the sludge is allowed to settle, and the supernatant liquor is removed. The sludge remaining in the aeration chamber is then mixed with a further aliquot of test chemical and sewage and the cycle is repeated.

(B) This method requires use of a chemical-specific analytical technique or ^{14}C-labeled test chemical. The purpose of the method is to determine the fate of the test chemical in a conventional activated sludge treatment plant. To this end, a complete mass balance for the test chemical is established by quantifying parent chemical in settled effluent sludge solids (insoluble test chemicals whether volatile or not), effluent plus solids (insoluble test chemicals whether volatile or not), and off gases (volatile test chemicals only). The identification and quantification of degradation products in all phases are recommended, but not required.

(iv) *Quality criteria*—(A) *Reproducibility.* When primary biodegradation is considered, very precise data are obtained for chemicals that are extensively degraded. The results reported in the reference under paragraph (d)(1) of this section suggest 95-percent confidence limits of less than ±3 percent, and this includes interlaboratory tests. As would be expected, wider confidence limits are obtained for less biodegradable chemicals.

(B) *Possibility of standardization.* Since the method uses a feed of settled sewage, absolute standardization is not possible unless this feed were replaced by synthetic sewage. However, since the method is designed to give an indication of the biodegradability potential of a chemical and is not a simulation test such standardization is unnecessary.

(C) *Possibility of automation.* Automation of this method would be possible but would be expensive. As the method is not labor intensive, the exercise would offer few advantages.

(2) *Description of the test procedure*—(i) *Preparations.* (A) The aeration units are cleaned and fixed in a suitable support. The air inlet tubes are connected to the supply manifold. A small laboratory-scale air compressor is used to aerate the units, and the air is presaturated with water to reduce evaporation losses from the units.

(B) If the test chemical is volatile, exhaust gases from the aeration units shall be passed through a suitable trap (such as Amberlite XAD–4, Rohm and Haas, Phila., PA) to remove volatilized organics.

(C) A sample of mixed liquor from an activated sludge plant treating predominantly domestic sewage is obtained. Approximately 150 milliliters (ml) of the mixed liquor are required for each aeration unit.

(D) The organic carbon analyzer is calibrated using potassium hydrogen phthalate.

(E) Stock solutions of the test chemicals are prepared: The concentration normally required is 400 milligrams per liter (mg/L) as organic carbon which gives a test chemical concentration of 20 mg/L carbon at the start of each aeration cycle if no biodegradation is occurring.

(F) If the test chemical is insoluble in water at 400 mg/L it may be necessary to use ultrasound dispersion to obtain a uniform stable suspension. Alternatively, test chemical may be added directly to the aeration units.

(G) The organic carbon content of the stock solutions is measured.

(ii) *Test conditions.* A high concentration of aerobic microorganisms is used, and the effective detention period is 36 hours. The carbonaceous material in the sewage feed is oxidized extensively within 8 hours of the start of each aeration cycle. Thereafter, the sludge respires endogenously for the remainder of the aeration period, during which time the only available substrate is the test chemical unless this is also readily metabolized. These features, combined with daily reinoculation of the test when domestic sewage is used as the medium, provide highly favorable conditions for both adaptation and biodegradation.

(iii) *Performance of the test.* (A) A sample of mixed liquor from a suitable activated sludge plant is obtained and aerated during transportation to the laboratory. Each aeration unit is filled with 150 ml of mixed liquor, and the aeration is started. After 23 hours, aeration is stopped, and the sludge is allowed to settle for 45 minutes. The tap is opened, and 100 ml of the supernatant liquor is withdrawn. A sample of settled domestic sewage is obtained immediately before use, and 100 ml are added to the sludge remaining in each aeration unit. Aeration is started anew. At this stage no test chemicals are added, and the units are fed daily with domestic sewage only until a clear supernatant liquor is obtained on settling. This usually takes up to 2 weeks, by which time the dissolved organic carbon in the supernatant liquor at the end of each aeration cycle should be less than 12 mg/L.

(B) At the end of this period the individual settled sludges are mixed, and 50 ml of the resulting composite sludge are added to each unit.

(C) One hundred ml of settled sewage are added to the control units, and 95 ml of settled sewage plus 5 ml of the appropriate test chemical stock solution or suspension (400 mg organic carbon/L) to the test units. If test chemical is added directly to aeration units, 100 ml of settled sewage is added, as in the control units.

(D) Aeration is started again and continued for 23 hours. The sludge is then allowed to settle for 45 minutes and the supernatant drained off and analyzed for parent chemical. Before analysis the liquors are filtered through washed 0.45-micrometer membrane filters and certifuged. Temperature of the sample must not exceed 40 °C while it is in the centrifuge.

(E) If the test chemical is insoluble or expected to sorb significantly to sludge solids, settled sludge is also collected by an appropriate means (such as centrifugation) and extracted to remove test chemical, and the extract is analyzed for parent chemical.

(F) If the test chemical is volatile, traps for removing volatile organics from exhaust gases are also extracted and the extracts analyzed for parent chemical.

(G) The fill and draw procedure under paragraph (b)(2)(iii) (C) through (F) of this section is repeated daily throughout the test.

(H) Before settling, it may be necessary to clean the walls of the units to prevent the accumulation of solids

above the level of the liquid. A separate scraper or brush is used for each unit to prevent cross contamination.

(l) The length of the test for chemicals showing little or no biodegradation is indeterminate, but experience suggests that this should be at least 12 weeks.

(c) *Data and reporting*—(1) *Treatment of the results.* (i) The concentration of parent chemical in settled effluent sludge solids (insoluble test chemicals whether volatile or not), effluent plus solids (insoluble test chemicals whether volatile or not), and off-gases (volatile test chemicals only) is plotted versus time for the test units. As biodegradation is achieved the level of the test chemical will decrease and approach a steady state. Once the levels of the test chemical are found to be constant over three consecutive measurements, three further measurements are made.

(ii) An example of the application of specific analytical technique to the SCAS test is discussed in the reference in paragraph (d)(2) of this section.

(d) *Literature references.* For additional background information on this test guideline the following references should be consulted:

(1) "A Procedure and Standards for the Determination of the Biodegradability of Alkyl Benzene Sulphonate and Linear Alkylate Sulphonate", *Journal of the American Chemical Society*, 42:986, 1965.

(2) Games, L.M., King, J.E., and Larson, R.J. "Fate and distribution of a quaternary ammonium surfactant octadecyltrimethylammonium chloride (OTAC), in wastewater treatment." *Environmental Science and Technology*, 16:483–488, 1982.

(Information collection requirements are approved by the Office of Management and Budget under control number 2070–0067.)

PART 799—[AMENDED]

3. Part 799 is amended as follows:

a. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. By adding § 799.500, to read as follows:

§ 799.500 Anthraquinone.

(a) *Identification of test substance.* (1) 9,10-anthraquinone (CAS No. 84–65–1) (hereinafter "anthraquinone") shall be tested in accordance with this section.

(2) Anthraquinone of at least 99 percent purity shall be used as the test substance.

(b) *Persons required to submit study plans, conduct tests, and submit data.* All persons who manufacture, import or process anthraquinone, other than as an impurity, from July 20, 1987 to the end of the reimbursement period shall submit letters of intent to conduct testing or exemption applications, submit study plans, conduct tests (in accordance with Part 792 of this chapter), and submit data as specified in this section, Subpart A of this Part, and Part 790 of this chapter for single-phase rulemaking.

(c) *First tier chemical fate and environmental effects testing*—(1) *Water solubility*—(i) *Required testing.* Water solubility tests shall be conducted with anthraquinone in accordance with the test guideline specified under § 796.1860 of this chapter. The tests shall be conducted at 12 °C and 22 °C for use in tests with cold and warm water species.

(ii) *Reporting requirements.* (A) The water solubility tests shall be completed and the final results submitted to the Agency within 1 year of the effective date of the final rule.

(B) A progress report shall be submitted 6 months after the effective date of the final rule.

(2) *Fish acute toxicity*—(i) *Required testing.* (A) Fish acute toxicity tests shall be conducted with anthraquinone using chinook salmon, *Oncorhynchus tshawytscha*, or coho salmon, *Oncorhynchus kisutch* (cold water species); bluegill, *Lepomis macrochirus* (warm water species); and rainbow trout, *Salmo gairdneri* (cold water species) in accordance with the test guideline specified under § 797.1400 of this chapter, except for paragraph (c)(4)(i) of § 797.1400.

(B) For the purposes of this section, the following provisions also apply:

(*1*) A minimum of 20 fish each shall be exposed to each of five or more test substance concentrations. The highest concentration shall be less than or equal to the solubility limit of anthraquinone. At least one concentration shall be between 1 part per billion (ppb) and 10 ppb.

(*2*) The total and dissolved (e.g., filtered) concentrations of the test substance shall be measured in each test chamber and the delivery chamber before the test to ascertain whether it is in solution.

(*3*) The test shall be performed under flowthrough conditions.

(ii) *Reporting requirements.* (A) The fish acute toxicity tests shall be completed and the final results submitted to the Agency within 1 year of the effective date of the final rule.

(B) A progress report shall be submitted 6 months after the effective date of the final rule.

(3) *Aquatic invertebrate acute toxicity*—(i) *Required testing.* (A) Aquatic invertebrate acute toxicity tests shall be conducted with anthraquinone using *Daphnia magna* or *D. pulex* and oyster, *Crassostrea virginica*, using the test guidelines specified under §§ 797.1300 and 797.1800 of this chapter, except for paragraph (c)(4)(ii) of § 797.1300.

(B) For the purpose of this section as it relates to § 797.1300 of this chapter, the following provisions also apply:

(*1*) A minimum of 20 daphnids per concentration shall be exposed to five or more concentrations of the test substance chosen in a geometric series in which the ratio is between 1.5 and 2.0 (e.g., 2, 4, 8, 16, 32, and 64 milligrams per liter (mg/L)). The highest concentration shall be less than or equal to the solubility limit of anthraquinone. At least one concentration shall be between 1 ppb and 10 ppb. An equal number of daphnids shall be placed in two or more replicates. If solvents, solubilizing agents or emulsifiers have to be used, they shall be commonly used carriers and shall not possess a synergistic or antagonistic effect on the toxicity of the test chemical. The concentration of solvent shall not exceed 0.1 milliliter per liter (ml/l).

(*2*) The test shall be performed under flowthrough conditions.

(*3*) The total and dissolved (e.g, filtered) concentrations of the test substance shall be measured in each test chamber and the delivery chamber before the test to ascertain whether it is in solution.

(*4*) The stability of the stock solution for the duration of the experiment must be analyzed and reported.

(*5*) The pH of the test solution shall be 7.

(C) For the purpose of this section as it relates to § 797.1800 of this chapter the following provisions also apply:

(*1*) The highest test concentration shall be less than or equal to the solubility limit of anthraquinone.

(*2*) At least one test concentration shall be between l ppb and 10 ppb.

(*3*) The total and dissolved (e.g., filtered) concentrations of the test substance shall be measured in each test chamber and the delivery chamber before the test to ascertain whether it is in solution.

(ii) *Reporting requirements.* (A) The invertebrate acute toxicity tests shall be completed and the final results submitted to the Agency within 1 year of the effective date of the final rule.

(B) A progress report shall be submitted 6 months after the effective date of the final rule.

(4) *Sediment toxicity to benthic invertebrates*—(i) *Required testing.* A sediment toxicity test shall be

conducted using one of the following two methods. (A) *Rhepoxynius* partial life cycle toxicity in sediment: A 10-day toxicity test in a static seawater system shall be conducted with the marine amphipod, *Rhepoxynius abronius*, using clean sediments having low, medium, and high organic carbon content spiked with anthraquinone in the concentration range of 0.01 to 1 part per million (ppm), according to the test guideline specified in the American Society for Testing and Materials Special Technical Testing Publication 854 (ASTM STP 854) entitled, "Phoxocephalid Amphipod Bioassay for Marine Sediment Toxicity," by R.C. Swartz, W.A. DeBen, J.K.P. Jones, J.O. Lamberson, and F.A. Cole and published in *Aquatic Toxicology and Hazard Assessment: Seventh Symposium*, ASTM STP 854, pp. 284–307, R.D. Caldwell, R. Purdy, and R.C. Bahner, Eds., 1985, which is incorporated by reference. (B) *Chironomus* partial life cycle toxicity in sediment: A 14-day toxicity test in a flowthrough system shall be conducted with the freshwater midge, *Chironomus tentans*, using clean, natural sediments having low, medium, and high organic carbon content spiked with anthraquinone in the concentration range of 0.01 to 1 ppm, according to the test guideline specified in the American Society for Testing and Materials Special Technical Testing Publication 854 (ASTM STP 854) entitled, "Aquatic Safety Assessments of Chemicals Sorbed to Sediments," by W.J. Adams, R.A. Kimerle, and R.G. Mosher and published in *Aquatic Toxicology and Hazard Assessment: Seventh Symposium*, ASTM STP 854, pp. 429–452, R.D. Caldwell, R. Purdy, and R.C. Bakner, Eds., 1985, which is incorporated by reference. The ASTM STP 854 is available for inspection at the Office of the Federal Register, Rm. 8401, 1100 L St., NW., Washington, D.C. This incorporation by reference was approved by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. This material is incorporated as it exists on the effective date of this rule, and a notice of any change in this material will be published in the **Federal Register.** Copies of the incorporated material may be obtained from the Document Control Officer (TS–793), Office of Toxic Substances, EPA, Rm. 107, 401 M St., SW., Washington, DC 20460, and from the American Society for Testing and Materials (ASTM), 1916 Race St., Philadelphia, PA 19103.

(ii) *Reporting requirements.* (A) The sediment toxicity test shall be completed and the final results submitted to the Agency within 2 years of the effective date of the final rule.

(B) Progress reports shall be submitted at 6-month intervals beginning 6 months after the effective date of the final rule.

(5) *Bioconcentration*—(i) *Required testing.* (A) A bioconcentration test shall be conducted with anthraquinone using oyster, *Crassostrea virginica*, in accordance with the test guideline specified under § 797.1830 of this chapter, except for paragraph (c)(4) (ii) and (vi)(A) of § 797.1830.

(B) For the purpose of this section the following provisions also apply:

(*1*) At least two concentrations shall be tested which are at least a factor of 10 apart to assess the propensity of the substance to bioconcentrate. The concentrations selected should not stress or adversely affect the oysters and should be less than one-tenth the EC50 determined in either the range-finding or 96-hour definitive test under § 797.1800 of this chapter. The test concentrations shall be less than the solubility limit of the test substance in water and shall be close to 1 ppb to 10 ppb. The limiting factor of how low one can test is based on the detection limits of the analytical methods. The concentration of the test substance in the test solution should be at least 10 times greater than the detection limit in water.

(*2*) The test shall not be started until the test substance delivery system has been observed to be functioning properly and the test substance concentrations have equilibrated (i.e, the concentration does not vary more than 20 percent). Analyses of two sets of test solution samples taken prior to test initiation should document this equilibrium. At initiation (time 0), the total and dissolved (e.g, filtered) concentrations of test substance shall be measured in the delivery chamber and each test chamber prior to the addition of oysters to the test chambers to ascertain whether it is in solution.

(ii) *Reporting requirements.* (A) The bioconcentration test shall be completed and the final results submitted to the Agency within 18 months of the effective date of the final rule.

(B) Progress reports shall be submitted at 6-month intervals beginning 6 months after the effective date of the final rule.

(d) *Second-tier chemical fate and environmental effects testing.* The following second-tier tests shall be conducted if EPA determines that the total annual volume of anthraquinone manufactured and imported in the United States during a single calendar year exceeds 3 million pounds, and the acute toxicity testing triggers described in this paragraph are met. EPA will monitor the production and importation volume of anthraquinone by the requirement under § 704.30 of this chapter that manufacturers and importers of anthraquinone submit section 8(a) reports to the Agency. EPA will publish notification in the **Federal Register** or notify the test sponsors by certified letter if the manufacture/importation volume trigger and an acute toxicity trigger are met.

(1) *Biodegradability in activated sludge systems*— (i) *Required testing.* (A) Biodegradability tests in activated sludge systems shall be conducted with anthraquinone in accordance with the test method entitled "Inherent biodegradability: Modified SCAS (semi-continuous activated sludge) test for chemical substances that are water insoluble or water insoluble and volatile" as specified under § 795.45 of this chapter except for paragraphs (b)(2)(i) (E), (F) and (iii)(c) of § 795.45, if EPA determines that the production/importation volume of anthraquinone in the United States during a single calendar year exceeds 3 million pounds, and any of the following conditions is met: (A) The LC50 of the most sensitive fish or the EC50 of the daphnid or oyster, as determined by the acute toxicity tests conducted in accordance with paragraph (c) (2) or (3) of this section, respectively, is less than 100 times the predicted environmental concentration (PEC) in water, i.e., less than 500 ppb; (B) the LC50 of *Rhepoxynius* or *Chironomus*, as determined by the sediment toxicity test conducted in accordance with paragraph (c)(4) of this section, is less than 100 times the PEC in sediment, i.e., less than 10 ppm; or (C) the oyster bioconcentration factor, as determined by the oyster bioconcentration test conducted in accordance with paragraph (c)(5) of this section, is greater than 3,000.

(B) For the purpose of this section the following provisions also apply:

(*1*) A stock solution of C^{14}-labeled anthraquinone shall be prepared at a concentration of 2 mg/L which gives a test substance concentration of 0.1 mg/L anthraquinone at the start of each aeration cycle if no biodegradation is occurring.

(*2*) If anthraquinone is insoluble in water at 2 mg/L, it may be necessary to use ultrasound dispersion to obtain a uniform stable suspension. Alternatively, C^{14}-labeled anthraquinone may be added directly to the aeration units to give a concentration of 0.1 mg/L anthraquinone at the start of each aeration cycle.

(3) One hundred ml of settled sewage are added to the control units, and 95 ml of settled sewage plus 5 ml of the C^{14}-labeled anthraquinone stock solution or suspension (2 mg anthraquinone/1) are added to the test units. If test substance is added directly to aeration units, 100 ml of settled sewage are added, as in the control units.

(ii) *Reporting requirements.* (A) The biodegradability tests in activated sludge systems shall be completed and the final results submitted to the Agency within 1 year of the date of EPA's notification of the test sponsor by certified letter or **Federal Register** notice announcing that the total annual volume of anthraquinone manufactured and imported in the United States during a single calendar year exceeds 3 million pounds and that one or more of the triggers described in paragraph (d)(1)(i) of this section has been met.

(B) A progress report shall be submitted 6 months after EPA's notification of the test sponsor by certified letter or the publication of the **Federal Register** notice announcing that testing is necessary.

(2) *Biodegradation rate*—(i) *Required testing.* Biodegradation rate tests shall be conducted with anthraquinone at concentrations at or below the water solubility as determined under the testing specified in paragraph (c)(1)(i) of this section, and close to the predicted environmental concentration in sediment, i.e., 0.1 ppm, in accordance with the test guideline described in the article by A.W. Bourquin et al. entitled "An Artificial Microbial Ecosystem for Determining Effects and Fate of Toxicants in a Salt-Marsh Environment," if EPA determines that the production/importation volume of anthraquinone in the United States during a single calendar year exceeds 3 million pounds, and any of the following conditions is met: (A) the LC50 of the most sensitive fish species or the EC50 for the daphnid or oyster, as determined by the acute toxicity tests conducted in accordance with paragraphs (c) (2) and (3) of this section respectively, is less than 100 times the predicted environmental concentration (PEC) in water, i.e., less than 500 ppb; (b) the LC50 of *Rhepoxynius* or *Chironomus*, as determined by the sediment toxicity test conducted in accordance with paragraph (c)(4) of this section, is less than 100 times the PEC in sediment, i.e., less than 10 ppm; or (C) the oyster bioconcentration factor, as determined by the oyster bioconcentration test conducted in accordance with paragraph (c)(5) of this section, is greater than 3,000. The A.W. Bourquin et al. article, entitled "An Artificial Microbial Ecosystem for Determining Effects and Fate of Toxicants in a Salt-Marsh Environment" published in *Developments in Industrial Microbiology*, Vol. 18, Chapter 11, 1977, is incorporated by reference and is available for inspection at the Office of the Federal Register, Rm. 8401, 1100 L St., NW., Washington, DC. This incorporation by reference was approved by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. This material is incorporated as it exists on the date of approval, and a notice of any change in this material will be published in the **Federal Register.** Copies of the incorporated material may be obtained from the Document Control Officer (TS–793), Office of Toxic Substances, EPA, Rm. NE–G004, 401 M St., SW., Washington, DC 20460, and from the Society for Industrial Microbiology, P.O.B. 12534, Arlington, VA 22209–8534.

(ii) *Reporting requirements.* (A) Biodegradation rate tests shall be completed and the final results submitted to the Agency within 1 year of the date of EPA's notification of the test sponsor by certified letter or a **Federal Register** notice announcing that the total annual volume of anthraquinone manufactured and imported in the United States during a single calendar year exceeds 3 million pounds and that one or more of the triggers described in paragraph (d)(2)(i) of this section has been met.

(B) A progress report shall be submitted 6 months after EPA's notification of the test sponsor by certified letter or the publication of the **Federal Register** notice announcing that testing is necessary.

(3) *Fish chronic toxicity*—(i) *Required testing.* (A) Fish chronic toxicity tests shall be conducted with anthraquinone in accordance with the test guideline specified under § 797.1600 of this chapter, except for paragraph (c)(6)(iv) of § 797.1600, if EPA determines that the production/importation volume of anthraquinone in the United States during a single calendar year exceeds 3 million pounds, and if the most sensitive fish species (with the lowest median lethal concentration (LC50)) in the acute toxicity tests conducted in accordance with paragraph (c)(2) of this section has an LC50 less than 100 times the predicted environmental concentration (PEC) in water, i.e., less than 500 ppb.

(B) For the purpose of this section, the following provisions also apply:

(*1*) Prior to the addition of the test substance to the dilution water, it is recommended that the test substance stock solution be analyzed to verify the concentration. After addition of the test substance, the total and dissolved (e.g., filtered) concentrations of the test substance shall be measured at the beginning of the test in each test chamber and delivery chamber to ascertain whether it is in solution. The concentration of test substance shall be measured in one replicate at each test concentration at least once a week thereafter. Replicates should be alternated each week. If a malfunction in the delivery system is discovered, water samples shall be taken immediately from the affected test chambers and analyzed.

(*2*) The highest concentration shall be less than or equal to the solubility limit of anthraquinone.

(*3*) At least one test concentration shall be between 1 ppb and 10 ppb.

(ii) *Reporting requirements.* (A) Fish chronic toxicity tests shall be completed and the final results submitted to the Agency within 2 years of the date of EPA's notification of the test sponsor by certified letter or a **Federal Register** notice announcing that the total annual volume of anthraquinone manufactured and imported in the United States during a single calendar year exceeds 3 million pounds and that the trigger described in paragraph (d)(3)(i)(A) of this section has been met.

(B) Progress reports shall be submitted at 6-month intervals beginning 6 months after EPA's notification of the test sponsor by certified letter or the publication of the **Federal Register** notice announcing that testing is necessary.

(4) *Daphnid chronic toxicity*—(i) *Required testing.* (A) Daphnid chronic toxicity test shall be conducted with anthraquinone using *Daphnia magna* or *D. pulex* in accordance with the test guideline specified under § 797.1330 of this chapter, except for paragraph (c)(4)(ii) of § 797.1330, if EPA determines that the total annual volume of anthraquinone manufactured and imported in the United States during a single calendar year exceeds 3 million pounds, and the median effective concentration (EC50) determined in accordance with paragraph (c)(3) of this section is less than 100 times the PEC in water, i.e., less than 500 ppb.

(B) For the purposes of this section, the following provisions also apply:

(*1*) A minimum of 20 daphnids per concentration shall be exposed to five or more concentrations of the substance chosen in a geometric series in which the ratio is between 1.5 and 2.0, (e.g., 2, 4, 8, 16, 32, 64 mg/L). An equal number of daphnids shall be placed in two or

more replicates. The highest concentration shall be less than or equal to the solubility of anthraquinone. At least one concentration shall be between 1 ppb and 10 ppb. Solutions shall be analyzed for chemical concentration prior to use and at designated times during the test.

(*2*) The pH of the test solution shall be 7.

(*3*) The total and dissolved (e.g., filtered) concentrations of test substance shall be measured in each test chamber and the delivery chamber before the test to ascertain whether it is in solution.

(*4*) The test shall be performed under flowthrough conditions;

(*5*) The stability of the stock solution for the duration of the experiment must be analyzed and reported.

(ii) *Reporting requirements.* (A) The daphnid chronic toxicity test shall be completed and the final results submitted to the Agency within 2 years of the date of EPA's notification of the test sponsor by certified letter or a **Federal Register** notice announcing that the total annual volume of anthraquinone manufactured and imported in the United States during a single calendar year exceeds 3 million pounds and that the trigger described in paragraph (d)(4)(i) of this section has been met.

(B) Progress reports shall be submitted at 6-month intervals beginning 6 months after EPA's notification of the test sponsor by certified letter or the publication of the **Federal Register** notice announcing that the testing is necessary.

(d) *Effective date.* The effective date of this final rule for anthraquinone is July 20, 1987.

(Information collection requirements have been approved by the Office of Management and Budget under control number 2070–0033.)

[FR Doc. 87–12724 Filed 6–3–87; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–40

[FPMR Amdt. G–81]

Transportation and Traffic Management

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) amends 41 CFR Part 101–40 by correcting certain minor technical errors found in FPMR Amendment G–79 (51 FR 24329, July 3, 1986), by updating and correcting certain references to the Code of Federal Regulations (CFR), and by revising the list of GSA regional offices to reflect recent GSA organizational changes. In addition, this amendment announces the revision of GSA Form 3080. This amendment is necessary to provide clearer guidance to civilian executive agencies about transportation and traffic management requirements.

EFFECTIVE DATE: June 4, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph M. Napoli, Regulations and Policy Division, FTS 557–1256 or commercial 703–557–1256.

SUPPLEMENTARY INFORMATION: Section 201(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(a)), details GSA's transportation and traffic management responsibilities which include: (a) Prescribing policies and methods of procurement and supply of personal property and nonpersonal services, including related functions such as transportation and traffic management; (b) representing executive agencies in negotiations with carriers or other public utilities before Federal and State regulatory bodies; and (c) providing traffic management services to any Federal agency upon its request. GSA is responsible, among other things, for providing traffic management guidance to civilian executive agencies.

FPMR Amendment G–79, effective July 3, 1986, was issued to clarify, revise, and update various policies and procedures in the area of transportation and traffic management. Since then, GSA has determined that certain administrative changes in 41 CFR Part 101–40 are necessary to correct several editorial flaws, to update the listing of GSA regional offices reorganized as zone offices, and to address the new GSA Form 3080 which was revised in both title and content to make the form more compatible with the Centralized Household Goods Traffic Management Program (41 CFR Subpart 101–40.2).

GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–40

Freight, Government property management, Moving of household goods, Office relocation, Transportation.

For the reasons set forth in the preamble, 41 CFR Part 101–40 is amended as follows:

PART 101–40—TRANSPORTATION AND TRAFFIC MANAGEMENT

1. The authority citation for Part 101–40 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

2. Section 101–40.000 is revised to read as follows:

§ 101–40.000 Scope of part.

This part prescribes regulations that apply to the freight and household goods transportation and traffic management activities of executive agencies, including any wholly owned Government corporation. Except for provisions to debar or suspend carriers in accordance with Subpart 9.4 of the Federal Acquisition Regulation (48 CFR Subpart 9.4), this part does not apply to the Department of Defense or any other executive agency exempted from these regulations pursuant to the Federal Property and Administrative Services Act of 1949, as amended. It also covers arrangements for transportation and related services by bill of lading type commitments. These regulations are designed to ensure that all transportation and traffic management activities will be carried out in a manner (or method) most advantageous to the Government in terms of service, economy, and efficiency.

3. Section 101–40.001 is revised to read as follows:

§ 101–40.001 Definitions.

"GSA Central Office" means the General Services Administration, Federal Supply Service, Office of Customer Support Management, Travel and Transportation Management Division, Washington, DC 20406.

"GSA regional office" means the GSA Traffic and Travel Services Zone Office(s), Federal Supply Service Bureau, specified in § 101–40.101–1(a).

Subpart 101–40.1—General Provisions

4. Section 101–40.101–1 is revised to read as follows:

§ 101-40.101-1 Freight transportation management assistance.

(a) Executive agencies may obtain traffic management assistance in the transportation of goods (other than household goods moving from, to, and between foreign countries) by contacting the following GSA zone offices serving agencies located within the jurisdictional areas noted:

Zone	Jurisdiction	Address and telephone
Eastern	AL, CT, DE, FL, GA, KY, MA, MD (note A), ME, MS, NC, NH, NJ, NY, PA, Puerto Rico, RI, SC, TN, VT, VA (note B), Virgin Islands, WV.	GSA, attn: 4FBT, 75 Spring Street, SW., Atlanta GA 30303.
Central	IA, IL, IN, KS, MI, MN, MO, NE, OH, WI.	GSA, Attn: 6FBT, 1500 E. Bannister St., Kansas City, MO 64131. FTS (unavailable) CML 816-523-6029
Southwestern	AR, CO, LA, MT, ND, NM, OK, SD, TX, UT, WY.	GSA. Attn: 7FBT, 819 Taylor Street, Fort Worth, TX 76102. FTS 334-2737 CML 817-334-2737
Western	AK, American Samoa, AZ, CA, GU, HI, ID, NV, Northern Mariana Islands, OR, Pacific Trust Terrorities, WA.	GSA. Attn: 9FBT, 525 Market Street, San Francisco, CA 94105. FTS 454-9288 CML 415-974-9288
National Capital Region (NCR).	DC, MD (note C), VA (note D)	GSA. Attn: WFBT, 7th & D Streets, SW., Washington, DC 20407. *FTS 472-1626 *CML 202-472-1626 #FTS 472-1944 #CML 202-472-1944

*Other than household goods/office relocation.
#Household goods/office relocation only.
Note A—Except for those counties under NCR jurisdiction as listed in note C.
Note B—Except for those cities and counties under NCR jurisdiction as listed in note D.
Note C—Counties of Prince Georges and Montgomery only.
Note D—Cities of Alexandria, Fairfax, Manassas and Manassas Park, and counties of Arlington, Fairfax, Loudoun, and Price William only.

(b) Executive agencies shall request assistance from the Department of State on shipments of household goods moving from, to, and between foreign countries. The Department of State, if requested, will prepare documents, book shipments, and make all customs arrangements. Assistance on movements originating abroad should be arranged through the nearest Embassy or Consulate. International shipments originating in the conterminous U.S. can be arranged with Transportation Operations, Room 1244, Department of State, Washington, DC 20520, FTS 632-4140 or commercial 800-424-2947.

5. Section 101-40.102 is amended by revising paragraphs (a) and (b) to read as follows:

§ 101-40.102 Representation before regulatory bodies.

* * * * *

(a) With respect to carriers' tariffs, rates, and operating authority, agencies shall submit their requests and recommendation for representation before regulatory bodies to the GSA Central Office for further processing.

(b) When a shipper's affidavit in support of a carrier's application for operating authority is required by law, the requesting agencies shall furnish the General Services Administration with such information and the appropriate form(s) as may be prescribed by transportation regulatory bodies in proceedings of this kind.

6. Section 101-40.103-2 is amended by revising paragraph (b) to read as follows:

§ 101-40.103-2 International transportation.

* * * * *

(b) *U.S.-flag air carriers.* Arrangements for international air transportation services shall be made in accordance with the so-called Fly America Act, as enacted by section 5 of the International Fair Competitive Practices Act of 1974, Pub. L. 93-623, January 3, 1975, as amended by section 21 of the International Air Transportation Competition Act of 1979, Pub. L. 96-192, February 15, 1980 (49 U.S.C. 1517). These acts require the use of U.S.-flag air carriers for international movement of property to the extent that services by these carriers are available. (See also 48 CFR Subpart 47.4.)

7. Section 101-40.103-3 is revised to read as follows:

§ 101-40.103-3 Coastwise transportation.

As stated in 46 U.S.C. 883, no merchandise shall be transported by water, or by land and water, between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under laws of the United States and owned by persons who are citizens of the United States or vessels to which the privilege of engaging in coastwise trade is extended by sections 13 and 808 of title 46 of the United States Code. There are exceptions and limitations to this basic provision, especially with regard to the United States island territories and possessions in the Atlantic and Pacific Oceans. (For example, see 46 U.S.C. 877 relative to the Virgin Islands; 48 U.S.C. 1664 relative to American Samoa; and Presidential Proclamation 3215, December 12, 1957, relative to Canton Island.) Agencies shall comply with the current U.S. coastwise laws and any amendments to them. The Secretary of Treasury is empowered to impose monetary penalties against agencies which violate the coastwise laws.

8. Section 101-40.104 is revised to read as follows:

§ 101-40.104 Insurance against transportation hazards.

The policy of the Government with respect to insurance of its property while in the possession of commercial carriers is set forth in 48 CFR 47.102.

9. Section 101-40.109-3 is amended by revising paragraph (b) to read as follows:

§ 101-40.109-3 Mandatory use of transportation-related contracts and agreements.

* * * * *

(b) When term contracts or agreements for transportation-related services, excluding office relocations, are entered into and awarded by GSA for use "as required," the term contract or agreement is mandatory upon all executive agencies; however, exceptions to the mandatory use of term contracts

or agreements may be granted by the appropriate GSA regional office.

* * * * *

10. Section 101–40.110–3 is revised to read as follows:

§ 101–40.110–3 Women-owned business enterprises.

Consistent with the policies of the Government with respect to women-owned business enterprises as set forth in Executive Order 12138, May 18, 1979, and 48 CFR Subpart 19.9, women-owned business concerns shall have the maximum practicable opportunity to participate in Government transportation purchases and contracts. Executive agencies shall create or support programs responsive to the special needs of women-owned business enterprises, establish incentives to promote business or business-related opportunities for women-owned business enterprises, collect and disseminate information in support of women-owned business enterprises, and ensure that women-owned business enterprises have knowledge of the ready access to business-related services and resources.

11. Section 101–40.203–2 is amended by revising paragraphs (a) and (b) to read as follows:

§ 101–40.203–2 The GBL method.

(a) For the purposes of the centralized household goods traffic management program described in this subpart 101–40.2, shipments of Government employees' household goods authorized to move under a Government bill of lading (GBL) are classified as "GBL method" shipments. This method is distinguishable from the commuted rate system (§ 101–40.203–3) in that when a GBL is used, the Government, not the employee, is the shipper and the Government pays the carrier the applicable transportation charges. The decision on which method shall be authorized is the decision of the employing agency, and shall be based on a cost comparison (see § 101–40.203–4) which the agency obtains from the appropriate GSA regional office specified in § 101–40.101–1 or an agency office delegated authority to furnish cost comparisons. The cost comparison shall contain the name(s) of the carrier(s) eligible to handle the household goods shipment. When a shipment moves under a GBL, the agency prepares the bill of lading, books the shipment, and in event of loss or damage to the household goods may either file claims directly with the carrier, on behalf of the employee, or assist the employee in filing claims against the carrier.

(b) When the agency makes the final determination that the GBL method shall be used, the Government's financial obligation for the cost of shipping the employee's household goods is established. Once the GBL method is authorized and an employee chooses to move all or part of his/her household goods by some other means (see paragraphs (c) and (d) of this section), the Government's financial responsibility toward the employee for shipping costs is limited to the cost which the Government would have incurred had all the household goods been moved on one GBL, in one lot, from one origin to one destination, by the lowest cost carrier providing the level of service required by the agency at the time the GBL method was authorized.

* * * * *

12. Section 101–40.203–3 is revised to read as follows:

§ 101–40.203–3 The commuted rate system.

The commuted rate system is the method whereby the employees who are authorized to transport their household goods at Government expense make their own shipping arrangements and are reimbursed by the Government according to the commuted rate schedule published in GSA Bulletin FPMR A–2. In addition to transportation allowances, the commuted rate schedule includes allowances for various related accessorial expenses, such as packing and crating, storage-in-transit, carrier labor charges, appliance servicing, and piano/organ handling. Under the commuted rate system, employees shipping via commercial carriers are responsible for making all arrangements with the carrier, filing loss and damage claims with the carrier, and making payment to the carrier after the shipment has been completed. Under the commuted rate system, the shipment is moved using commercial documents, or employees may elect to transport their household goods in a rental vehicle or by private conveyance. The use of household goods rate tenders (see § 101–40.203–1) is not authorized when household goods are shipped under the commuted rate system.

13. Section 101–40.204 is revised to read as follows:

§ 101–40.204 Carrier selection and distribution of shipments.

A cost comparison, furnished to the requesting agency, will contain the names and point of contact for at least 10 eligible carriers on interstate traffic and up to 5 eligible carriers on interstate traffic. Eligible carriers are those carriers which meet minimum service criteria established by GSA. Additionally, eligible carriers will be evaluated and ranked on the cost comparison (see § 101–40.203–4) based on completed GSA Forms 3080, Household Goods Carrier Evaluation Report (see § 101–40.205), submitted to GSA by Federal employees. Agencies authorizing the GBL method shall select the eligible carrier that meets the agency's service requirements and offers the lowest cost consistent therewith. Deviations from this methodology shall be documented in the requesting agency's records.

14. Section 101–40.205 is revised to read as follows:

§ 101–40.205 Quality control.

GSA Form 3080 (REV 10–86), Household Goods Carrier Evaluation Report (see § 101–40.4902), approved by the Office of Management and Budget under OMB reports control number 3090–0092, is a self-addressed form used by GSA and other agencies for monitoring the performance and quality of household goods carriers' service. GSA Form 3080 is furnished with the cost comparison. When household goods shipments are made under the GBL method, the employee (following delivery of the shipment) should be encouraged by his/her agency to promptly complete GSA Form 3080 and mail it to the address shown there or to the Central Transportation Zone Office, 6FBT. See § 101–40.101(a) for offices that distribute GSA Form 3080. Information compiled from the completed GSA Form 3080 is used by GSA or other agencies to determine if actions under § 101–40.208 should be considered. Agencies may submit other documentation of instances of inadequate carrier service or performance to the appropriate GSA regional office. Sufficient details must be furnished to identify specific shipments.

15. Section 101–40.301 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 101–40.301 GSA rate and routing services.

(a) * * *

(1) Unless otherwise revoked by the GSA Central Office, permanent exemption from the rate and routing requirements of this section is granted to the Federal Emergency Management Agency (FEMA), Department of Energy (DOE), National Aeronautics and Space Administration (NASA), and the United States Department of Agriculture (USDA) to the following extent:

(i) FEMA: Initial positioning of mobile homes shipped in response to disasters;

(ii) DOE: Priority energy and classified defense and nuclear waste management shipments;

(iii) NASA: Shipments of key, critical items necessary to the success of space and aerospace research, development, acquisition, flight or launch activities; and

(iv) USDA: Emergency shipments of forest firefighting materials and equipment; household goods shipments to and from isolated areas.

(2) To meet other transportation exigencies of a critical and recurring nature, executive agencies, other than those exempted to the extent noted in paragraph (a)(1) of this section, may request the appropriate GSA regional office to grant a temporary exemption from the routing requirements of this section. In a local emergency, which precludes the requesting of routing instructions in accordance with the requirements of this section, routing by any transportation mode may be made without prior approval. Requests for temporary exemption shall be in writing, and the appropriate GSA regional office will accept or deny the request by written instructions to the requesting agency. Exemptions will be granted for a duration of time not to exceed 1 year; however, on written request, an exemption may be renewed or extended.

* * * * *

16. Section 101–40.306–4 is revised to read as follows:

§ 101–40.306–4 Bill of lading endorsements.

To ensure application of Government rate tenders to all shipments qualifying for their use, bills of lading covering the shipments shall be endorsed with the applicable tender or quotation number and carrier identification; e.g., "Section 10721 quotation, ABC Transportation Company, Tender I.C.C. No. 143." In addition, where commercial bills of lading are used rather than Government bills of lading, the commercial bills of lading shall be endorsed in conformance with the provisions set forth in § 101–40.306–2(a). (For specific regulations covering transportation generated under cost-reimbursement type contracts, see 48 CFR 47.104–3.)

17. Section 101–40.402 is amended by revising paragraph (b) to read as follows:

§ 101–40.402 General.

* * * * *

(b) Debarment is designed to protect the Government by excluding a carrier for a specified period of time following completion of an investigation or legal proceeding. A carrier may be debarred for willful and/or persistent service failures or if the agency's debarring official determines that a Governmentwide exclusion of the carrier is necessary to ensure the integrity of Government transportation programs. The agency's transportation officer shall refer carriers to the agency's debarring official in accordance with 48 CFR 9.406, if the carrier has willfully and/or persistently failed to comply with its contractual obligations under the terms and conditions of any contract for transportation. Referrals for criminal and/or civil fraud prosecutions should be made by the agency's Inspector General or an equivalent official.

* * * * *

18. Section 101–40.404 is amended by removing the text following the section heading. The section heading continues to read as follows:

§ 101–40.404 Maintenance of a list of temporary nonuse, debarred, or suspended carriers.

19. Section 101–40.702–3 is amended by revising paragraph (b) to read as follows:

§ 101–40.702–3 Preparation of a discrepancy report.

* * * * *

(b) When the total value of the loss, damage, shortage, or other discrepancy, or the value of repairs or replacement, including unearned freight charges, where applicable, on a single bill of lading or other transportation document exceeds $50 or the minimum (i.e., $50 or less) set by the agency, the receiving activity shall prepare Standard Form 361, Transportation Discrepancy Report, as soon as possible, but not later than 45 calendar days after receipt of the shipment or discovery of the discrepancy. Every effort shall be made to reconcile overages or shortages within 15 calendar days after discovery. (Suspected pilferage, theft, or loss during transit of narcotics, hazardous articles, or sensitive materials, regardless of dollar value, shall be reported to the appropriate agencies within 24 hours in accordance with paragraphs (c), (d), and (e) of this section.) Any photographs taken as documentary evidence (see § 101–40. 701(d)) should be attached to the discrepancy report to support claim action. Standard Form 361 (SF 361) (see § 101–40.4901) is approved by the Office of Management and Budget under OMB reports control number 3090–0093. Guidelines for the preparation of SF 361 are contained in § 101–40.4901–361–1. (See the GSA handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (subpart 101–26.8) for specific requirements for reporting discrepancies in shipments from GSA or DOD.)

* * * * *

20. Section 101–40.703–3 is amended by revising paragraph (a) to read as follows:

§ 101–40.703–3 Notice of concealed loss, damage, or shortage.

(a) *Domestic shipments.* When loss, damage, or shortage that was not apparent at the time of delivery is subsequently discovered, and the total amount of loss, damage, or shortage, including unearned freight charges, where applicable, on a single bill of lading or other transportation document, is known to exceed $50 or the amount ($50 or less) set by the agency pursuant to § 101–40.702.3(a), the delivering carrier (not a drayage or switching carrier) shall be notified by telephone and requested to inspect the property involved. Unless there are extenuating circumstances, the notification and request for inspection shall be made by telephone not later than 15 calendar days from the date of receipt of the shipment and confirmed on SF 361. SF 361 shall include the date the telephone request for inspection was made and the name of the carrier's representative who was contacted. A copy of the notification and request for inspection shall be retained for possible claim purposes. Wrappings, packing materials, and any unopened packages shall be retained for the carrier's inspection. A copy of the carrier's inspection report shall be requested for use in determining liability or preparing a claim. If the carrier fails to make an inspection within a reasonable time as stated in § 101–40.703–2(c), or if the carrier waives the opportunity to perform an inspection, the carrier shall furnish an oral or written waiver as provided in SF 361.

* * * * *

21. Section 101–40.4902 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 101–40.4902 GSA forms; availability.

* * * * *

(b) Except for GSA Form 3080 (Household Goods Carrier Evaluation Report), GSA forms may be obtained initially from General Services Administration, National Forms and Publications Center, Warehouse 4, Dock No. 1, 4900 South Hemphill Street, Fort Worth, Texas 76115. Agency field or regional offices should submit future requirements to their Washington, DC headquarters office which will forward consolidated annual requirements to the

GSA National Forms and Publications Center.

(c) GSA Form 3080 is only available through GSA regional offices as provided in § 101–40.205.

Dated: May 11, 1987.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87–12759 Filed 6–3–87; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6648

[ID–943–07–4220–10; I–8856]

Public Land Order No. 6566; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order corrects an error in the **SUMMARY** and Paragraph 1 of Public Land Order No. 6566 of February 7, 1985.

EFFECTIVE DATE: June 4, 1987.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208–334–1735.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

In FR Doc. 85–3050 published on page 5262 in the issue of Thursday, February 7, 1985, the language contained in the summary and paragraph 1, actually segregated the land beyond the intended purpose of the withdrawal. The fifth line of the summary which reads "will close to surface entry and mining", is corrected to read "withdrawn from the mining laws"; and the fifth line of paragraph 1 which reads "withdrawn from settlement, sale, location, or entry, under all the general land laws, including the mining laws," is corrected to read "withdrawn from the mining laws,".

May 28, 1987.

J. Steven Griles,

Assistant Secretary of the Interior.

[FR Doc. 87–12678 Filed 6–3–87; 8:45 am]

BILLING CODE 4310–GG–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 81

Purchase of Federal Crime Insurance and Adjustment of Claims; State Listings

AGENCY: The Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This Final Rule amends the list of states whose residents are eligible to purchase Federal Crime Insurance Program policies against burglary and robbery losses and, as of July 1, 1987, removes from the list the States of Massachusetts and Missouri, and, as of October 1, 1987, the State of Ohio.

EFFECTIVE DATE: Section 81.1(b)(1) July 1, 1987 and 81.1(b)(2), October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Robert J. DeHenzel, Chief of Urban Property Insurance Operations Division, Office of Insurance Operations, Federal Insurance Administration, 500 C Street, SW, Room 433, Washington, DC 20472, telephone number (202) 646–3440.

SUPPLEMENTARY INFORMATION: A proposed rule published in the **Federal Register** (Vol. 51, No. 143) on July 25, 1986, 51 FR 26726, and amended by notice in the **Federal Register** on August 5, 1986, 51 FR 28119, invited comments for a period of 60 days, ending October 6, 1986. The proposed rule amended the list of States whose residents are eligible to purchase Federal Crime Insurance Policies against burglary and robbery losses under the Federal Crime Insurance Program (FCIP) and proposed to remove from the the list the States of Arkansas, Colorado, Iowa, Louisiana, Maryland, Massachusetts, Missouri, North Carolina, Ohio, Pennsylvania and Virginia, effective January 1, 1987. All of these States (with the exception of Colorado) applied for one-time Federal payments, which were paid under the authority of Pub. L. 99–160 (signed November 25, 1985) upon their certification that they would develop, on an expeditious basis, an alternative mechanism for providing access to crime insurance to all current FCIP policyholders in their States who apply.

Final Regulations were published on December 15, 1986, which removed from the Federal Crime Insurance Program the States of Arkansas, Iowa, Colorado, Louisiana, North Carolina and Virginia as of January 31, 1987, and in which the Federal Insurance Administration stated its intent to publish additional Final Regulations at a later date with regard to the States of Maryland, Massachusetts, Missouri, Ohio, and Pennsylvania.

Written comments were received following the publication of the December 15, 1986, Regulations from the State Insurance Departments for the States of Maryland, Massachusetts, Missouri, Ohio and Pennsylvania. The letter from the Insurance Commissioner for the State of Maryland stated that the State Legislature had not passed legislation authorizing him to develop an alternative program for providing crime insurance in Maryland. Consequently the State of Maryland will return the $56,000 one-time Federal payment and he certified that there continued to be a critical need for the continuation of the Federal Crime Insurance Program in the State of Maryland. The Insurance Commissioner for the Commonwealth of Pennsylvania stated that, despite diligent efforts, the Commonwealth and the private insurance sector had been unable to develop a crime insurance program that would address the needs of the residents of the Commonwealth and that Pennsylvania will return the $630,000 one-time payment. She certified that there continued to be a critical need for the continuation of the Federal Crime Insurance Program in the Commonwealth of Pennsylvania. The Insurance Departments for the States of Massachusetts and Missouri, both with substantial numbers of FCIP polcies, indicated a need for additional time until July 1, 1987, to complete expeditious action. A letter from the Insurance Commissioner for the State of Ohio indicated that even with expeditious action, there will be a need for additional time until the end of September, 1987.

This action is being taken under the authority of 12 USC 1749bbb–10a, on the basis of the Administrator's continuing review of the crime insurance availability situation in the various States. Before taking this final action, all comments have been considered. In view of the certifications received from the Insurance Commissioners for the State of Maryland and the Commonwealth of Pennsylvania and their commitments to return the one-time Federal payments, the Administrator has determined that there continues to be a need for the Federal Crime Insurance Program to be available in Maryland and Pennsylvania.

The Administrator has determined that, on the basis of the expeditious action being taken in the States of Massachusetts and Missouri, to develop on the State level crime insurance mechanisms to resolve any crime

insurance unavailability problems, the Federal Crime Insurance Program will not be available in those States, effective July 1, 1987, and on the basis of expeditious action being taken in the State of Ohio to develop a mechanism on the State level to resolve any crime insurance unavailability problem in Ohio, the Federal Crime Insurance Program will not be available in Ohio, effective October 1, 1987.

An Environmental Assessment has been prepared and it has been determined that there is no significant impact on the environment caused by the implementation of the rule and no environmental impact statement has been prepared.

It has also been determined that because of the very small number of policies in affected States, this rule will not have a significant impact upon a substantial number of small entities. Furthermore, there are no information collection requirements involved which require review under section 3504(b) of the Paperwork Reduction Act of 1978.

Lists of Subjects in 44 CFR Part 81

Claims, Crime insurance.

PART 81—[AMENDED]

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

Authority: 12 U.S.C. 1749bbb et seq.; Reorganization Plan No. 3 of 1978; E.O. 12127.

2. Section 81.1(b) is revised to read as follows:

§ 81.1 [Amended]

* * * * * *

(b)(1) On the basis of the information available, the Federal Insurance Administrator has determined that the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and the States set forth in this paragraph have an unresolved critical crime insurance market unavailability problem which requires the operation of the Federal Crime Insurance Program therein, as of July 1, 1987. Accordingly, the Program is in operation in the following jurisdictions, as of July 1, 1987:

Alabama	New Jersey
California	Ohio
Connecticut	New York
Delaware	Pennsylvania
Florida	Rhode Island
Georgia	Tennessee
Illinois	District of Columbia
Kansas	Puerto Rico
Maryland	Virgin Islands

(2) On the basis of the information available, the Federal Insurance Administrator has determined that the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and the States set forth in this paragraph have an unresolved critical crime insurance market unavailability problem which requires the operation of the Federal Crime Insurance Program, therein, as of October 1, 1987. Accordingly, the Program is in operation in the following jurisdictions, as of October 1, 1987.

Alabama	New Jersey
California	New York
Connecticut	Pennsylvania
Delaware	Rhode Island
Florida	Tennessee
Georgia	District of Columbia
Illinois	Puerto Rico
Kansas	Virgin Islands
Maryland	

* * * * *

Harold T. Duryee,

Federal Insurance Administrator, Federal Insurance Administration.

[FR Doc. 87-12688 Filed 6-3-87; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 150

[CGD 86-100]

Compatibility of Cargoes

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the requirements for compatible stowage of bulk liquid hazardous materials on tank vessels by adding materials recently authorized by the Coast Guard for carriage and by making minor technical changes. This action updates the current regulations and better informs persons loading bulk liquid chemical cargoes of their compatibility.

EFFECTIVE DATE: July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Michael C. Parnarouskis, Hazardous Materials Branch, Office of Marine Safety, Security and Environmental Protection, (202) 267-1577.

SUPPLEMENTARY INFORMATION: On December 8, 1986, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** (51 FR 44182). Interested persons were given until January 7, 1987 for submission of written comments. Two comments were received suggesting certain nonsubstantive editorial improvements and indicating typographical errors and inadvertently omitted materials. The final rule has been amended accordingly.

The Compatibility Chart and its companion tables and appendices will be updated periodically as the Coast Guard approves new materials for carriage.

Regulatory Evaluations

These regulations are considered to be non-major under Executive Order 12291 and nonsignificant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979).

Part 150 neither authorizes nor prohibits the carriage of a particular cargo. Cargos are authorized for carriage under 46 CFR Parts 30, 151, 153, 154, and 154a. The regulations in Part 150 identify those authorized cargoes which are not compatible and prescribe minimum standards for keeping incompatible cargoes separated while being carried. Therefore, the rules in this part have only a minimal economic impact. These amendments add materials authorized since August 1985 and correct typographical errors. Because the economic impact of this final rule has been found to be so minimal, further evaluation is unnecessary.

Regulatory Flexibility Act

Because the economic impact of this rule is expected to be minimal for the reasons stated in the "Regulatory Evaluation" section of this preamble, the Coast Guard certifies in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rulemaking contains no information collection or record-keeping requirements.

Environmental Assessment

The Coast Guard has considered the environmental impact of the regulations and concluded that preparation of an environmental impact statement is not necessary. An environmental assessment with a finding of no significant impact has been prepared and is on file in the rulemaking docket.

List of Subjects in 46 CFR Part 150

Hazardous materials transportation, Marine safety.

For the reasons set out in the preamble, Title 46, Chapter I, Part 150 of the Code of Federal Regulations is amended as follows:

PART 150—COMPATIBILITY OF CARGOES

1. The authority citation for Part 150 is revised to read as follows and all other authority citations are removed:

Authority: 46 U.S.C. 3703; 49 U.S.C. 1804; 49 CFR 1.46 (b), (t), (u); § 150.105 issued under 44 U.S.C. 3507(f), 49 CFR 1.45(a)(2).

§ 150.140 [Amended]

2. By revising the telephone number in § 150.140 to read "(202) 267–1577".

3. Figure 1—Compatibility Chart is amended by adding two headnotes to read as follows and by removing all footnotes.

Figure 1—Compatibility Chart

[X indicates incompatible groups]

[See Appendix I for Exceptions]

* * * * *

4. By revising Table I, Table II, and Appendix I to read as follows:

TABLE I - ALPHABETICAL LIST OF CARGOES

[Entries in **boldface** are new additions or changes]

Chemical name	Group No.	CHRIS code	Related CHRIS codes
Acetaldehyde	19	AAD	
Acetic acid	[2] 4	AAC	
Acetic anhydride	11	ACA	
Acetone	[2] 18	ACT	
Acetone cyanohydrin	[1,2] 0	ACY	
Acetonitrile	37	ATN	
Acetophenone	18	ACP	
Acetyl tributyl citrate	34		
Acrolein	[2] 19	ARL	
Acrylamide solution	10	AAM	
Acrylic acid	[2] 4	ACR	
Acrylonitrile	[2] 15	ACN	
Adiponitrile	37	ADN	
Alcohols (mixed)	20		
Alkyl acrylate-Vinyl pyridine copolymer in Toluene	**32**	**AAP**	
Alkyl benzene sulfonic acid	[1,2] 0	ABS	
Alkyl phthalates	34		
Allyl alcohol	[2] 15	ALA	
Allyl chloride	15	ALC	
Aluminum sulfate solution	[2] **43**	**ASX**	**ALM**
2-(2-Aminoethoxy)ethanol	8	AEX	
Aminoethylethanolamine	8	AEE	
N-Aminoethylpiperazine	7	AEP	
2-Amino-2-hydroxymethyl-1,3-propanediol solution	**43**	**AHL**	
2-Amino-2-methyl-1-propanol	8	APR	
Ammonia, anhydrous	6	AMA	
Ammonium bisulfite solution	[2] 43	**ABX**	ASU
Ammonium hydroxide (28 pct. or less Ammonia)	6	AMH	
Ammonium nitrate solution	[1] **0**	**ANR**	**AMN**
Ammonium nitrate, Urea solution (containing Ammonia)	6	UAS	
Ammonium nitrate, Urea solution (not containing Ammonia)	43	ANU	
Ammonium polyphosphate solution	43		
Ammonium sulfate solution	43		AMS
Ammonium sulfide solution	5	ASS	ASF
Ammonium thiosulfate solution	**43**	**ATV**	
Amyl acetate	34		IAT/AML/AAS/ AYA/**AEC**
Amyl alcohol	20		IAA/AAN
Amylene	30		
Amyl methyl ketone	18	AMK	
Amyl tallate	34		
Aniline	9	ANL	
Anthracene oil (Coal tar fraction)	**33**	**AHO**	
Asphalt	33	ASP	
Asphalt blending stocks, roofers flux	33	ARF	
Asphalt blending stocks, straight run residue	33	ASR	
Behenyl alcohol	20		
Benzene	32	BNZ	
Benzene, Hydrocarbon mixtures (10 pct. Benzene or more)	32	BHB	
Benzenesulfonyl chloride	[1,2] 0	BSC	
Benzene, Toluene, Xylene mixtures	32	BTX	
Benzyl alcohol	21	BAL	
Benzyl chloride	36	BCL	
Butadiene	30	BDI	
Butadiene, Butene mixtures (cont. Acetylenes)	30	BBM	
Butane	31	BMX	IBT/BUT
Butene	30	BTN	IBL
Butyl acetate	34		IBA/BCN/BTA/ BYA

TABLE I - ALPHABETICAL LIST OF CARGOES—Continued

[Entries in **boldface** are new additions or changes]

Chemical name	Group No.	CHRIS code	Related CHRIS codes
Butyl acrylate	14	BAR	BAI/BTC
Butyl alcohol	[2] 20		IAL/BAN/BAS/BAT
Butylamine	7	BTY	IAM/BAM/BTL/BUA
Butyl benzene	**32**	**BBE**	
Butyl benzyl phthalate	34	BPH	
Butylene	30		BTN/IBL
Butylene glycol	[2] 20		
Butylene oxide	16	BTO	
Butyl ether	41	BTE	
Butyl formate	34	BFN	BFI
iso-Butyl isobutyrate	**34**	**BIB**	
Butyl heptyl ketone	18		
Butyl methacrylate	14	BMH	BMI/BMM/BMN
Butyl methacrylate, Decyl methacrylate, **Cetyl-Eicosyl** methacrylate mixture	14	DER	
Butyraldehyde	19	BAE	BAD/BTR/BFA
Butyric acid	4	BRA	**IBR**
gamma-Butyrolactone	[1,2] 0	BLA	
Calcium bromide solution	43		
Calcium bromide, Zinc bromide solution	**43**	**CZB**	
Calcium chloride solution	43		CLC
Calcium naphthenate in Mineral oil	**34**	**CNM**	
Calcium sulfonate, Calcium carbonate, Hydrocarbon solvent mixture	33		
Camphor oil	18	CPO	
Caprolactam solution	22	CLS	
Carbolic oil	21	CBO	
Carbon black base	33		
Carbon disulfide	38	CBB	
Carbon tetrachloride	36	CBT	
Cashew nut shell oil (untreated)	4	OCN	
Caustic potash solution	[2] 5	CPS	
Caustic soda solution	[2] 5	CSS	
Cetyl-Eicosyl methacrylate	14	CEM	
Chlorine	[1] 0	CLX	
Chloroacetic acid solution	4	CHM	CHL/MCA
Chlorobenzene	36	CRB	
Chlorodifluoromethane	36	MCF	
Chloroform	36	CRF	
Chlorohydrins	**17**	**CHD**	
4-Chloro-2-methylphenoxyacetic acid, Dimethylamine salt solution	**9**	**CDM**	
Chloronitrobenzene, see o-Nitrochlorobenzene			CNO/CNP
Chloropropionic acid	**4**	**CPM**	**CLA/CLP**
Chlorosulfonic acid	[1] 0	CSA	
Chlorotoluene	36	CHI	CTM/CTO/CRN
Choline chloride solutions	20		
Coal tar oil	**33**	**OCT**	
Coal tar pitch	**33**	**CTP**	
Corn syrup	43	CSY	
Creosote	[2] 21	CCT	CCW/CWD
Cresols	21	CRS	CRL/CRO/CSO
Cresylate spent caustic	5	CSC	
Cresylic acid	21	CRY	
Crotonaldehyde	[2] 19	CTA	
Cumene	32	CUM	
Cycloaliphatic resins	31		
Cyclohexane	31	CHX	
Cyclohexane oxidation product acid water	4		
Cyclohexanol	20	CHN	
Cyclohexanone	18	CCH	
Cyclohexanone, Cyclohexanol mixtures	[2] 18	CYX	
Cyclohexylamine	7	CHA	
Cyclopentadiene polymers	30		
Cyclopentadiene, Styrene, Benzene mixtures	30	CSB	
Cymene	32	CMP	
Decaldehyde	19		IDA/DAL
Decane	31	DDC	
Decene	30	DCE	
Decyl acrylate	14	DAT	IAI/DAR

TABLE I - ALPHABETICAL LIST OF CARGOES—Continued

[Entries in **boldface** are new additions or changes]

Chemical name	Group No.	CHRIS code	Related CHRIS codes
Decyl alcohol	[2] 20	**DAX**	ISA/DAN
Decyl benzene	32	DBZ	
Dextrose solution	43	DTS	
Diacetone alcohol	[2] 20	DAA	
Diammonium salt of Zinc EDTA solution	43	DSZ	
Dibutylamine	7	DBA	
Dibutyl phthalate	34	DPA	
Dichlorobenzene	36		DBM/DBO/DBP
Dichlorodifluoromethane	36	DCF	
1,1-Dichloroethane	36	DCH	
2,2'-Dichloroethyl ether	41	DEE	
2,2'-Dichloroisopropyl ether	36	DCI	
Dichloromethane (Methylene chloride)	36	DCM	
2,4-Dichlorophenol	21	DCP	
2,4-Dichlorophenoxyacetic acid, Diethanolamine salt solution	43	**DDE**	
2,4-Dichlorophenoxyacetic acid, Dimethylamine salt solution	[1,2] **0**	**DAD**	**DDA,DSX**
2,4-Dichlorophenoxyacetic acid, Triisopropanolamine salt solution	[2] **43**	**DTI**	
Dichloropropane	36	DPX	DPB/DPP/ DPC/DPL
1,3-Dichloropropene	15	DPS	DPF/DPU
Dichloropropene, Dichloropropane mixtures	15	DMX	
2,2-Dichloropropionic acid	4	DCN	
Dicyclopentadiene	30	DPT	
Diethanolamine	8	DEA	
Diethanolamine salt of 2,4-Dichlorophenoxy acetic acid solution	43	DDE	
Diethylamine	7	DEN	
Diethylaminoethanol	**8**		**DAE**
Diethylbenzene	32	DEB	
Diethylene glycol	40	DEG	
Diethylene glycol monobutyl ether	40	DME	
Diethylene glycol monobutyl ether acetate	34	DEM	
Diethylene glycol monoethyl ether	40	DGE	
Diethylene glycol methyl ether	40	DGM	
Diethylene glycol monophenyl ether	40		
Diethylenetriamine	[2] 7	DET	
Diethylethanolamine	8	DAE	
Di-(2-ethylhexyl)phosphoric acid	**1**	**DEP**	
Di-(ethylhexyl)phthalate	34		DIO/DOP
Diethyl phthalate	**34**	**DPH**	
Diethyl sulfate	34	DSU	
Diglycidyl ether of Bisphenol A	41	BDE	BPA
Diheptyl phthalate	34	**DHP**	
Di-n-hexyl adipate	34		
Diisobutylamine	7	DBU	
Diisobutyl carbinol	20	DBC	
Diisobutylene	30	DBL	
Diisobutyl ketone	18	DIK	
Diisobutyl phthalate	**34**	**DIT**	
Diisodecyl phthalate	34	DID	
Diisononyl adipate	34		
Diisononyl phthalate	34	DIN	
Diisooctyl phthalate	34	DIO	
Diisopropanolamine	8	DIP	
Diisopropylamine	7	DIA	
Diisopropyl benzene	32	**DIX**	
Diisopropyl naphthalene	32	**DII**	
N,N-Dimethyl acetamide	10	DAC	
Dimethyl adipate	34		
Dimethylamine	7	DMA	DMC/DMG/ DMY
Dimethylamine solution	**7**		**DMC/DMG/ DMY**
Dimethylamine salt of 4-Chloro-2-methylphenoxyacetic acid solution	**9**	**CDM**	
Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid solution	[1,2] 0	DAD	DDA, DSX
Dimethylcyclicsiloxane hydrolyzate	34		
N,N-Dimethylcyclohexylamine	7	DXN	
Dimethylethanolamine	8	DMB	
Dimethylformamide	10	DMF	
Dimethyl furan	41		

TABLE I - ALPHABETICAL LIST OF CARGOES—Continued

[Entries in **boldface** are new additions or changes]

Chemical name	Group No.	CHRIS code	Related CHRIS codes
Dimethyl glutarate	34		
Dimethyl hydrogen phosphite	[2]34	DPI	
2,2-Dimethyloctanoic acid	4	DMO	
Dimethyl phthalate	34	DTL	
Dimethyl polysiloxane	34	DMP	
2,2-Dimethylpropane-1,3-diol	20		
Dimethyl succinate	34		
Dinonyl phthalate	34		
Dinitrotoluene	**42**	**DNM**	**DTT/DNL/DNU**
Dioctyl phthalate	34	DOP	
1,4-Dioxane	41	DOX	
Dipentene	30	DPN	
Diphenyl	**32**	**DIL**	
Diphenyl, Diphenyl oxide	33	DDO	DTH
Diphenyl ether	**41**	**DPE**	
Diphenylmethane diisocyanate	12	DPM	
Diphenylol propane-Epichlorohydrin resins	[1]**0**	**DPR**	
Diphenyl oxide, Diphenyl phenyl ether mixture	41	DOB	
Di-n-Propylamine	7	DNA	
Dipropylene glycol	40	DPG	
Dipropylene glycol dibenzoate	34		
Distillates, flashed feed stocks	33	DFF	
Distillates, straight run	33	DSR	
Diundecyl phthalate	34	DUP	
Dodecane	31		
Dodecanol	20	DDN	LAL
Dodecene	30	**DOZ**	DDC/**DOD**
Dodecylamine, Tetradecylamine mixture	[2]7	DTA	
Dodecyl alcohol	**20**	**DDN**	**LAL**
Dodecylbenzene	32	DDB	
Dodecyl diphenyl oxide disulfonate solution	43	DOS	
Dodecyl methacrylate	14	DDM	
Dodecyl-Pentadecyl methacrylate	14	DDP	
Dodecyl phenol	21	DOL	
Epichlorohydrin	17	EPC	
Epoxy resin	18		
Ethane	31	ETH	
Ethanolamine	8	MEA	
2-Ethoxyethyl acetate	**34**	**EEA**	
Ethoxylated alcohols, C11-C15	20		EOD/ENP/ EOP/EOT/ ETD
Ethoxy triglycol	40	ETG	
Ethyl acetate	34	ETA	
Ethyl acetoacetate	34	EAA	
Ethyl acrylate	14	EAC	
Ethyl alcohol	[2]20	EAL	
Ethylamine	[2]7	EAM	
Ethylamine solution	7	EAN	
Ethyl benzene	32	ETB	
Ethyl butanol	20	EBT	
N-Ethyl-n-butylamine	7	EBA	
Ethyl butyrate	34	EBR	
Ethyl chloride	36	ECL	
N-Ethyl cyclohexylamine	7	ECC	
Ethylene	30	ETL	
Ethylene chlorohydrin	20	ECH	
Ethylene cyanohydrin	20	ETC	
Ethylenediamine	[2]7	EDA	EMX
Ethylene dibromide	36	EDB	
Ethylene dichloride	[2]36	EDC	
Ethyl-2-ethoxypropionate	**34**		
Ethylene glycol	[2]20	EGL	
Ethylene glycol diacetate	**34**	**EGY**	
Ethylene glycol monobutyl ether	40	EGM	
Ethylene glycol monobutyl ether acetate	34	EMA	
Ethylene glycol monoethyl ether	40	EGE	
Ethylene glycol ethyl ether acetate	34	EGA	
Ethylene glycol monoisopropyl ether	40		

TABLE I - ALPHABETICAL LIST OF CARGOES—Continued

[Entries in **boldface** are new additions or changes]

Chemical name	Group No.	CHRIS code	Related CHRIS codes
Ethylene glycol monomethyl ether	40	EME	
Ethylene glycol phenyl ether	40		
Ethylene oxide	[1] 0	EOX	
Ethylene oxide, Propylene oxide mixture	16	EPM	
Ethylene-Vinyl acetate copolymer emulsion	43		
Ethyl ether	41	EET	
Ethylhexaldehyde	19	EHA	
2-Ethylhexanol	20	EHX	
2-Ethylhexanoic acid	4		
2-Ethylhexyl acrylate	14	EAI	
2-Ethyl hexylamine	7	EHM	
Ethyl hexyl phthalate	**34**	**EHE**	
Ethyl hexyl tallate	34	EHT	
Ethylidene norbornene	[2] 30	ENB	
Ethyl methacrylate	14	ETM	
2-Ethyl-6-methyl-N-(1'-methyl-2-methoxyethyl)aniline	9	EEM	
o-Ethyl phenol	**21**	**EPL**	
Ethyl propionate	34	EPR	
2-Ethyl-3-propylacrolein	[2] 19	EPA	
Ethyl toluene	**32**	**ETE**	
Fatty acid amides	33		
Fatty alcohols	**20**	**FAT**	
Formaldehyde, Methanol mixtures	[2] 19	MTM	
Formaldehyde solution	[2] 19	FMS	
Formamide	10	FAM	
Formic acid	[2] 4	FMA	
Fumaric adduct of Rosin, water dispersion	**43**	**FAR**	
Furfural	19	FFA	
Furfuryl alcohol	[2] 20	FAL	
Gas oil, cracked	33	GOC	
Gasoline blending stock, alkylates	33	GAK	
Gasoline blending stock, reformates	33	GRF	
Gasolines:			
Automotive (not over 4.23 grams lead per gal.)	33	GAT	
Aviation (not over 4.86 grams lead per gal)	33	GAV	
Casinghead (natural)	33	GCS	
Polymer	33	GPL	
Straight run	33	GSR	
Glutaraldehyde solution	19	GTA	
Glycerine	[2] 20	GCR	
Glyceryl triacetate	34		
Glycidyl ester of Versatic acid	34		
Glycol diacetate	34		
Glycols, Resins, and Solvents mixture	33		
Glyoxal solutions	19	GOS	
Heptane	31	HPT	
n-Heptanoic acid	4	HEP	
Heptanol	20	HTX	HTN
1-Heptene	30	HPX	HTE
Heptyl acetate	**34**	**HPE**	
Herbicide (C15-H22-NO2-Cl)	33		
Hexamethylenediamine solution	7	HMC	HMD
Hexamethylenetetramine	7	HMT	
Hexamethylenimine	7	HMI	
Hexane	[2] 31	HXA	IHA
Hexanol	20	HXN	
Hexene	30	HEX	HXE
Hexyl acetate	**34**	**HAE**	
Hexylene glycol	20	HXG	
Hydrochloric acid	1	HCL	
Hydrochloric acid, spent	1	HCS	
Hydrofluoric acid	1	HFA	
Hydrofluorosilicic acid	1	HFS	
Hydrogen peroxide solutions	[1] 0		HPN/HPS/HPO
2-Hydroxyethyl acrylate	[1,2] 0	HAI	
Industrial waste (containing Dimethyldisulfide, Methyl mercaptan, and Methomyl)	32	INW	
Isophorone	[2] 18	IPH	
Isophorone diamine	**7**	**IPI**	
Isophorone diisocyanate	**12**	**IPD**	

TABLE I - ALPHABETICAL LIST OF CARGOES—Continued

[Entries in **boldface** are new additions or changes]

Chemical name	Group No.	CHRIS code	Related CHRIS codes
Isoprene	30	IPR	
Isopropylbenzene	**32**	**CUM**	
Jet fuels:			
JP-1	33	JPO	
JP-3	33	JPT	
JP-4	33	JPF	
JP-5	33	JPV	
Kaolin clay slurry	43		
Kerosene	33	KRS	
Ketone residue	18		
Kraft black liquor	5		
Lactonitrile solution	**37**	**LNI**	
Latex, liquid synthetic	43	LLS	
Lignin liquor	43		
Magnesium chloride solution	[1,2] 0		
Magnesium nonyl phenol sulfide	33		
Magnesium sulfonate	**34**	**MSE**	
Maleic anhydride	11	MLA	
Maleic anhydride copolymer	33		
Mercaptobenzothiazol, sodium salt solution	**5**	**SMB**	
Mesityl oxide	[2] 18	MSO	
Methacrylic acid	4	MAD	
Methacrylonitrile	15	MET	
Methane	31	MTH	
Methoxy triglycol	40	MTG	
Methyl acetate	34	MTT	
Methyl acetoacetate	34		
Methyl acetylene, Propadiene mixture	30	MAP	
Methyl acrylate	14	MAM	
Methyl alcohol	[2] 20	MAL	
Methylamine	7	MTA	
Methylamine solutions	7	MSZ	
Methyl amyl acetate	34	MAC	
Methyl amyl alcohol	20	MAA	
Methyl amyl ketone	18	MAK	
Methyl bromide	36	MTB	
Methyl butyl ketone	**18**	**MBK**	
Methyl tert-butyl ether	[2] 41	MBF	
3-Methyl butyraldehyde	19		
Methyl butyrate	34	MBU	
Methyl chloride	36	MTC	
Methyl diethanolamine	**8**	**MDE**	
4,4'-Methylene dianiline (43 pct. or less), Polymethylene polyphenylamine, o-Dichlorobenzene mixtures	9	MDB	
2-Methyl-6-ethyl aniline	9	MEN	
Methyl ethyl ketone	[2] 18	MEK	
2-Methyl-5-ethyl pyridine	9	MEP	
Methyl formal	41	MTF	
Methyl formate	34	MFM	
Methyl heptyl ketone	18	MHK	
2-Methyl-2-hydroxy-3-butyne	20	MHB	
Methyl isoamyl ketone	18		MAK
Methyl isobutyl carbinol	20	MIC	
Methyl isobutyl ketone	[2] 18	MIK	
Methyl methacrylate	14	MMM	
Methyl naphthalene	32	MNA	
Methylolureas	19	MUS	
2-Methyl-1-pentene	**30**	**MPN**	
Methyl pyridine	9		MPE/MPF/MPR
N-Methyl-2-pyrrolidone	9	MPY	
Methyl salicylate	**34**	**MES**	
alpha-Methyl styrene	30	MSR	
Mineral spirits	33	MNS	
Molasses	20		
Monochlorodifluoromethane	36	MCF	
Morpholine	[2] 7	MPL	
Motor fuel antiknock compounds containing lead alkyls	[1] 0	MFA	
Naphtha:			
Coal tar	33	NCT	
Cracking fraction	[2] 33		

TABLE I - ALPHABETICAL LIST OF CARGOES—Continued

[Entries in **boldface** are new additions or changes]

Chemical name	Group No.	CHRIS code	Related CHRIS codes
Petroleum	33	PTN	
Solvent	33	NSV	
Stoddard solvent	33	NSS	
Varnish Makers' and Painters'	33	NVM	
Naphthalene	32	NTM	
Naphthenic acid	4	NTI	
Neodecanoic acid	**4**	**NEA**	
Nitrating acid (mixture of Sulfuric acid and Nitric acid)	[1] **0**	**NIA**	
Nitric acid (70 pct. or less)	3	NCD	
Nitric acid (greater than 70 pct.)	[1] 0		NAC
Nitrobenzene	42	NTB	
o-Nitrochlorobenzene	42	CNO	CNP
Nitroethane	42	NTE	
o-Nitrophenol	[1,2] 0	NTP	NIP/NPH
Nitropropane	42	NPM	NPN/NPP
Nitropropane, Nitroethane mixture	42	NNM	
Nitrotoluene	42	NIT	NIE/NTT/NTR
Nonane	31	NAN	
Nonene	30	NON	NNE
Nonyl alcohol	[2] 20	NNN	
Nonyl phenol	21	NNP	
Nonyl phenol (ethoxylated)	40		
Nonyl phenol sulfide solution	33		NPS
1-Octadecene	30		
Octadecenoamide	10		
Octane	31	OAN	IOO
Octene	30	OTX	OTE
Octyl alcohol (Octanol)	[2] 20	OCX	IOA/OTA
Octyl aldehyde	19		IOC
Octyl epoxytallate	34	OET	
Octyl nitrate	[2] 34	ONE	
Octyl phenol	21		
Oils:			
Clarified	33	OCF	
Coal	33		
Crude	33	OIL	
Diesel	33	ODS	
Residual	33		
Road	33	ORD	
Transformer	33	OTF	
Edible oils, including:			
Babassu	34		
Castor	34	OCA	
Coconut	[2] 34	OCC	
Coconut, methyl ester	34		
Corn	34		
Cotton seed	34	OCS	
Cotton seed, fatty acid	34		
Fish	[2] 34	OFS	
Lard	34	OLD	
Olive	34	OOL	
Palm	[2] 34	OPM	
Peanut	34	OPN	
Rapeseed	34		
Rice bran	34		
Safflower	34	OSF	
Soya bean	34	OSB	
Soybean (epoxidized)	40		EVO
Sunflower seed	34		
Tucum	34	OTC	
Vegetable	34	OVG	
Fuel oils:			
No. 1	33	OON	
No. 1-D	33	OOD	
No. 2	33	OTW	
No. 2-D	33	OTD	
No. 4	33	OFR	
No. 5	33	OFV	
No. 6	33	OSX	

TABLE I - ALPHABETICAL LIST OF CARGOES—Continued

[Entries in **boldface** are new additions or changes]

Chemical name	Group No.	CHRIS code	Related CHRIS codes
Miscellaneous oils, including:			
Absorption	33	OAS	
Aliphatic	33		
Aromatic (5 pct. or less Benzene)	33		
Coal tar	33	OCT	
Heartcut distillate	33		
Linseed	33	OLS	
Lubricating	33	OLB	
Mineral	33	OMN	
Mineral seal	33	OMS	
Motor	33	OMT	
Neatsfoot	33	ONF	
Oiticica	34		
Penetrating	33	OPT	
Pine	**33**	**OPI**	
Range	33	ORG	
Resin	33	ORS	
Resinous petroleum	33		
Rosin	33	ORN	
Seal	34		
Soapstock	34		
Sperm	33	OSP	
Spindle	33	OSD	
Spray	33	OSY	
Tall	34	OTL	
Tall, fatty acid	[2] 34	**TOF**	
Tanner's	33	OTN	
Tung	34		
Turbine	33	OTB	
White (mineral)	33		
Oleic acid	4	OLA	
Oleum	[1,2] 0	OLM	
Oxyalkylated alkyl phenol formaldehyde	33		
Paraldehyde	**19**	**PDH**	
Pentachloroethane	36	PCE	
Pentadecanol	20	PDC	
1,3-Pentadiene	30	**PDE**	PDN
Pentaethylenehexamine, Tetraethylenepentamine mixture	7	PEP	
Pentane	31		IPT/PTA
Pentene	30	PTX	PTE
Pentene, Miscellaneous hydrocarbon mixture	[2] 30		
3-Pentenenitrile	37	PNT	
Pentyl aldehyde	19		
Perchloroethylene	36	PER	
Petrolatum	33	PTL	
Phenol	21	PHN	
1-Phenyl-1-xylyl ethane	**32**	**PXE**	
Phosphoric acid	1	PAC	
Phosphorus	[1] 0		PPW/PPR/PPB
Phthalic anhydride	11	PAN	
Pinene	30	**PIN**	
Pine oil	**33**	**OPI**	
Polyalkenyl succinic anhydride amine	33		
Polybutadiene, hydroxyl terminated	20		
Polybutene	30	PLB	
Polydimethylsiloxane	34		
Polyethylene glycols	40		
Polyethylene polyamines	[2] 7	PEB	
Polymethylene polyphenyl isocyanate	12	PPI	
Polymethylsiloxane	34		
Polypropylene	30	PLP	
Polypropylene glycol	40	PGC	
Polypropylene glycol methyl ether	40	PGM	
Polyvinylbenzyltrimethyl ammonium chloride solution	43	PVB	
Potassium hydroxide solution	**[2] 5**	**CPS**	
Propane	31	PRP	
Propanolamine	8		MPA/PLA/PRM
Propionaldehyde	19	PAD	
Propionic acid	4	PNA	

TABLE I - ALPHABETICAL LIST OF CARGOES—Continued

[Entries in **boldface** are new additions or changes]

Chemical name	Group No	CHRIS code	Related CHRIS codes
Propionic anhydride	11	PAH	
Propionitrile	37	PCN	
Propyl acetate	34		IAC/PAT
Propyl alcohol	[2] 20		IPA/PAL
Propylamine	7		IPO/IPP/PRA
Propylene	30	PPL	
Propylene butylene polymer	30	PBP	
Propylene dimer	**30**	**PDR**	
Propylene glycol	[2] 20	PPG	
Propylene oxide	16	POX	
Propylene tetramer	30	PTT	
Propylene trimer	**30**	**PTR**	
Propyl ether	41		IPE
Pseudocumene	32		TME
Pyridine	9	PRD	
Pyridine bases	9	PRB	
Rosin soap (disproportionated solution)	**43**	**RSP**	
Rum	20		
Salicylaldehyde	19	SAL	
Sewage sludge	43		
Sodium alkyl sulfonate solution	**43**	**SSU**	
Sodium borohydride, Sodium hydroxide solution	5	SBX	SBH/SBI
Sodium carbonate solutions	5		
Sodium chlorate solution	[1,2] 0	SDD	SDC
Sodium cyanide solution	5	SCS	SCN
Sodium dichromate solution	[1,2] 0	SDL	SCR
Sodium dimethyl naphthalene sulfonate solution	[2] 34		
Sodium hydrogen sulfite solution	**43**	**SHX**	
Sodium hydrosulfide solution	5	SHR	
Sodium hydrosulfide, Ammonium sulfide solution	**5**	**SSA**	
Sodium hydroxide solution	[2] **5**	**CSS**	
Sodium hypochlorite solution	5	SHP	SHC
Sodium 2-mercaptobenzothiazol solution	5	SMB	
Sodium naphthalene sulfonate solution	**34**	**SNS**	
Sodium polyacrylate solution	[2] 43		
Sodium salt of Ferric hydroxyethylethylenediamine triacetic acid solution	43	STA	
Sodium silicate solution	[2] 43	SSC	
Sodium sulfide, Hydrosulfide solution	[1] 0		SSH/SSI/SSJ
Sodium thiocyanate solution	[1,2] 0	STS	SCY
Sorbitol solutions	20		SBT
Stearic acid	4	SRA	
Styrene	30	STY	
Sulfolane	39	SFL	
Sulfur	[1] 0	SXX	
Sulfuric acid	[2] 2	SFA	
Sulfuric acid, spent	2	SAC	
Tall oil	**34**	**OTL**	
Tall oil soap (disproportionated solution)	**43**	**TOS**	
Tallow	[2] 34	TLO	
Tallow fatty acid	[2] 34		
Tallow fatty alcohol	20	TFA	
Tallow nitrile	37		
1,1,2,2-Tetrachloroethane	36	TEC	
Tetradecanol	20	TTN	
Tetradecene	30	TTD	
Tetradecylbenzene	32	TDB	
Tetraethylene glycol	40	TTG	
Tetraethylenepentamine	7	TTP	
Tetrahydrofuran	41	THF	
Tetrahydronaphthalene	32	THN	
Tetrasodium salt of EDTA solution	43		
Titanium tetrachloride	2	TTT	
Toluene	32	TOL	
Toluenediamine	9	TDA	
Toluene diisocyanate	12	TDI	
o-Toluidine	9	TLI	
Triarylphosphate	34		
Tributyl phosphate	34	TBP	
1,2,4-Trichlorobenzene	36	TCB	

TABLE I - ALPHABETICAL LIST OF CARGOES—Continued

[Entries in **boldface** are new additions or changes]

Chemical name	Group No.	CHRIS code	Related CHRIS codes
1,1,1-Trichloroethane	[2] 36	TCE	
1,1,2-Trichloroethane	36	TCM	
Trichloroethylene	[2] 36	TCL	
1,2,3-Trichloropropane	36	TCN	
1,1,2-Trichloro-1,2,2-trifluoroethane	36	**TTF**	
Tricresyl (Tritolyl) phosphate	**34**		**TCO/TCP**
Tridecane	34		
Tridecanol	20	TDN	
Tridecene	30	TDC	
Tridecylbenzene	32		
Triethanolamine	[2] 8	TEA	
Triethylamine	7	TEN	
Triethyl benzene	32	TEB	
Triethylene glycol	40	TEG	
Triethylene glycol butyl ether mixture	40		
Triethylene glycol ether mixture	40		
Triethylenetetramine	[2] 7	TET	
Triethyl phosphate	34		
Triethyl phosphite	[2] 34	TPI	
Triisobutylene	**30**	**TIB**	
Triisooctyl trimellitate	34		
Triisopropanolamine	8	TIP	
Triisopropanolamine salt of 2,4-Dichlorophenoxyacetic acid solution	43	TSA	
Trimethylacetic acid	**4**	**TAA**	
Trimethyl benzene	32	TME	TMB/TMD
Trimethylhexamethylene diamine (2,2,4- and 2,4,4-)	**7**	**THA**	
Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4-)	**12**	**THI**	
2,2,4-Trimethyl pentanediol-1,3-diisobutyrate	34		
2,2,4-Trimethyl-1,3-pentanediol-1-isobutyrate	**34**	**TMP**	
2,2,4-Trimethyl-3-pentanol-1-isobutyrate	34		
Trimethyl phosphite	**[2] 34**	**TPP**	
Tripropylene	30		
Tripropylene glycol	40	TGC	
Tripropylene glycol monomethyl ether	40		
Trisodium nitrilotriacetate	34		
Trixylenyl phosphate	**34**	**TRP**	
Turpentine	30	TPT	
Undecanol	20	UND	
Undecene	30	UDC	
Undecyl alcohol	**20**	**UND**	
Undecylbenzene	32	UDB	
Urea, Ammonium nitrate solution (containing Ammonia)	6	UAS	
Urea, Ammonium nitrate solution (not containing Ammonia)	43	ANU	
Valeraldehyde	19		IVA/VAL/VAK
Vanillin black liquor	5	VBL	
Vinyl acetate	13	VAM	
Vinyl acetate-Fumarate copolymer	34		
Vinyl chloride	35	VCM	
Vinyl ethyl ether	13	VEE	
Vinylidene chloride	35	VCI	
Vinyl neodecanate	13	VND	
Vinyl toluene	13	VNT	
Waxes:			
Carnauba	34	WCA	
Paraffin	31	WPF	
White spirit (low (15-20%) aromatic	**33**	**WSL**	**WSP**
Xylene	32	XLX	XLM/XLO/XLP
Xylenols	**21**	**XYL**	
Zinc bromide, Calcium bromide solution	43	CZB	

[1] Because of very high reactivity or unusual conditions of carriage or potential compatibility problems, this product is not assigned to a specific group in the Compatibility Chart. For additional compatibility information, contact Commandant (**G-MTH**), U.S. Coast Guard, 2100 Second Street, SW., Washington, D.C. 20593-**0001**. Telephone (202) **267-1577**.

[2] See Appendix I - Exceptions to the Chart.

Table II - Grouping of Cargoes

([•] New addition to 46 CFR Part 150)

0. Unassigned Cargoes

Acetone cyanohydrin [1,2]
Alkyl benzene sulfonic acid [1,2]
•Ammonium nitrate solution [1]
Benzenesulfonyl chloride [1,2]
gamma-Butyrolactone [1,2]
Chlorine [1]
Chlorosulfonic acid [1]
•2,4-Dichlorophenoxyacetic acid, Dimethylamine salt solution [1,2]
Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid solution [1,2]
•Diphenylol propane-Epichlorohydrin resins [1]
Ethylene oxide [1]
2-Hydroxyethyl acrylate [1,2]
Magnesium chloride solution [1,2]
Motor fuel antiknock compounds containing Lead alkyls [1]
•Nitrating acid (mixture of Sulfuric acid and Nitric acid) [1]
Nitric acid (greater than 70 pct.) [1]
o-Nitrophenol [1,2]
Oleum [1,2]
Phosphorus [1]
Sodium chlorate solution [1,2]
Sodium dichromate solution [1,2]
Sodium sulfide, Hydrosulfide solution [1]
Sodium thiocyanate solution [1,2]
Sulfur [1]

1. Non-Oxidizing Mineral Acids

•Di-(2-ethylhexyl)phosphoric acid
Hydrochloric acid
Hydrochloric acid, spent
Hydrofluoric acid
Hydrofluorosilicic acid
Phosphoric acid

2. Sulfuric Acids

Sulfuric acid [2]
Sulfuric acid, spent
Titanium tetrachloride

3. Nitric Acid

Nitric acid (70 pct. or less)

4. Organic Acids

Acetic acid [2]
Acrylic acid [2]
Butyric acid
Cashew nut shell oil (untreated)
Chloroacetic acid solution
•Chloropropionic acid
Cyclohexane oxidation product acid water
2,2-Dichloropropionic acid
2,2-Dimethyloctanoic acid
2-Ethylhexanoic acid
Formic acid [2]
n-Heptanoic acid
Methacrylic acid
Naphthenic acid
•Neodecanoic acid
Nonanoic acid
Oleic acid
Propionic acid
Stearic acid
•Trimethylacetic acid

5. Caustics

Ammonium sulfide solution
•Calcium hypochlorite solution
Caustic potash solution [2]
Caustic soda solution [2]
Cresylate spent caustic
Kraft black liquor
•Mercaptobenzothiazol, sodium salt solution
•Potassium hydroxide solution [2]
Sodium borohydride, Sodium hydroxide solution
Sodium carbonate solutions
Sodium cyanide solution
Sodium hydrosulfide solution
•Sodium hydrosulfide, Ammonium sulfide solution
•Sodium hydroxide solution [2]
Sodium hypochlorite solution
Sodium 2-mercaptobenzothiazol solution
Vanillin black liquor

6. Ammonia

Ammonia, anhydrous
Ammonium hydroxide (28 pct. or less Ammonia)
Ammonium nitrate, Urea solution (containing Ammonia)
Urea, Ammonium nitrate solution (containing Ammonia)

7. Aliphatic Amines

N-Aminoethylpiperazine
Butylamine
Cyclohexylamine
Dibutylamine
Diethylamine [2]
Diethylenetriamine
Diisobutylamine
Diisopropylamine
Dimethylamine
•Dimethylamine solution
N,N-Dimethylcyclohexylamine
Di-n-propylamine
Dodecylamine, Tetradecylamine mixture [2]
Ethylamine [2]
Ethylamine solution
N-Ethyl-n-butylamine
N-Ethyl cyclohexylamine
Ethylenediamine [2]
2-Ethyl hexylamine
Hexamethylenediamine solution
Hexamethylenetetramine
Hexamethylenimine
•Isophorone diamine
Methylamine
Methylamine solutions
Morpholine [2]
Pentaethylenehexamine, Tetraethylenepentamine mixture
Polyethylene polyamines [2]
Propylamine
Tetraethylenepentamine
Triethylamine
Triethylenetetramine [2]
•Trimethylhexamethylene diamine (2,2,4- and 2,4,4-)

8. Alkanolamines

2-(2-Aminoethoxy)ethanol
Aminoethylethanolamine
2-Amino-2-methyl-1-propanol
Diethanolamine
•Diethylaminoethanol
Diethylethanolamine
Diisopropanolamine
Dimethylethanolamine
Ethanolamine
Propanolamine
Triethanolamine [2]
Triisopropanolamine

9. Aromatic Amines

Aniline
•4-Chloro-2-methylphenoxyacetic acid, Dimethylamine salt solution
•Dimethylamine salt of 4-Chloro-2-methylphenoxyacetic acid solution
2-Ethyl-6-methyl-N-(1-methyl-2-methoxyethyl)aniline
4,4'-Methylene dianiline (43 pct. or less), Polymethylene polyphenylamine, o-Dichlorobenzene mixtures
2-Methyl-6-ethyl aniline
2-Methyl-5-ethyl pyridine
Methyl pyridine
N-Methyl pyrrolidone
Pyridine
Pyridine bases
Toluenediamine
p-Toluidine

10. Amides

Acrylamide solution
Dimethyl acetamide
Dimethylformamide
Formamide
Octadecenoamide

11. Organic Anhydrides

Acetic anhydride
Maleic anhydride
Phthalic anhydride
Propionic anhydride

12. Isocyanates

Diphenylmethane diisocyanate
•Isophorone diisocyanate
Polymethylene polyphenyl isocyanate
Toluene diisocyanate
•Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4-)

13. Vinyl Acetate

Vinyl acetate
Vinyl ethyl ether
Vinyl neodecanate
Vinyl toluene

14. Acrylates

Butyl acrylate
Butyl methacrylate
•Butyl methacrylate, Decyl methacrylate, Cetyl-Eicosyl methacrylate mixture
•Cetyl-Eicosyl methacrylate
Decyl acrylate
Dodecyl methacrylate
•Dodecyl-Pentadecyl methacrylate
Ethyl acrylate
2-Ethylhexyl acrylate
Ethyl methacrylate
Methyl acrylate
Methyl methacrylate

15. Substituted Allyls

Acrylonitrile [2]
Allyl alcohol [2]
Allyl chloride
1,3-Dichloropropene
Dichloropropene, Dichloropropane mixtures
Methacrylonitrile

16. Alkylene Oxides

Butylene oxide
Ethylene oxide, Propylene oxide mixtures
Propylene oxide

17. Epichlorohydrin

•Chlorohydrins
Epichlorohydrin

18. Ketones

Acetone [2]
Acetophenone
Amyl methyl ketone
Butyl heptyl ketone
Camphor oil
Cyclohexanone
Cyclohexanone, Cyclohexanol mixtures [2]
Diisobutyl ketone
Epoxy resin
Ketone residue
Isophorone [2]
Mesityl oxide [2]
Methyl amyl ketone
•Methyl butyl ketone
•Methyl diethanolamine
Methyl ethyl ketone [2]
Methyl heptyl ketone
Methyl isoamyl ketone
Methyl isobutyl ketone [2]

19. Aldehydes

Acetaldehyde
Acrolein [2]
Butyraldehyde
Crotonaldehyde [2]
Decaldehyde
Ethylhexaldehyde
2-Ethyl-3-propylacrolein [2]
Formaldehyde, Methanol mixtures [2]
Formaldehyde solution [2]
Furfural
Glutaraldehyde solution
Glyoxal solutions
3-Methyl butyraldehyde
Methylolureas
Octyl aldehyde
•Paraldehyde
Pentyl aldehyde
Propionaldehyde
Salicylaldehyde
Valeraldehyde

20. Alcohols, Glycols

Alcohols (mixed)
Amyl alcohol
Behenyl alcohol
Butyl alcohol [2]
Butylene glycol [2]
Choline chloride solutions
Cyclohexanol
Decyl alcohol [2]
Diacetone alcohol [2]
Diisobutyl carbinol
2,2-Dimethylpropane-1,3-diol
Dodecanol
•Dodecyl alcohol
Ethoxylated alcohols, C11-C15
Ethyl alcohol [2]
Ethyl butanol
Ethylene chlorohydrin
Ethylene cyanohydrin
Ethylene glycol [2]
2-Ethylhexanol
•Fatty alcohols
Furfuryl alcohol [2]
Glycerine [2]
Heptanol
Hexanol
Hexylene glycol
Methyl alcohol [2]
Methyl amyl alcohol
2-Methyl-2-hydroxy-3-butyne
Methyl isobutyl carbinol
Molasses
Nonyl alcohol [2]
Octyl alcohol [2]
Pentadecanol
Polybutadiene, hydroxyl terminated
Propyl alcohol [2]
Propylene glycol [2]
Rum
Sorbitol solutions
Tallow fatty alcohol
Tetradecanol
Tridecanol
Undecanol
•Undecyl alcohol

21. Phenols, Cresols

Benzyl alcohol
Carbolic oil
Creosote [2]
Cresols
Cresylic acid
2,4-Dichlorophenol
Dodecyl phenol
•o-Ethylphenol
Nonyl phenol
Octyl phenol
Phenol
•Xylenols

22. Caprolactam Solutions

Caprolactam solution

23-29. Unassigned

30. Olefins

Amylene
Butadiene
Butadiene, Butene mixtures (cont. Acetylenes)
Butene
Butylene
Cyclopentadiene polymers
Cyclopentadiene, Styrene, Benzene mixture
Decene
Dicyclopentadiene
Diisobutylene
Dipentene
Dodecene
Ethylene
Ethylidene norbornene [2]
1-Heptene
Hexene
Isoprene
Methyl acetylene, Propadiene mixture
•2-Methyl-1-pentene
alpha-Methyl styrene
Nonene
1-Octadecene
Octene
1,3-Pentadiene
Pentene
Pentene, Miscellaneous hydrocarbon mixture [2]
Pinene
Polybutene
Polypropylene
Propylene
Propylene butylene polymer
•Propylene dimer
Propylene tetramer
•Propylene trimer
Styrene
Tetradecene
Tridecene
•Triisobutylene
Tripropylene
Turpentine
Undecene

31. Paraffins

Butane
Cycloaliphatic resins
Cyclohexane
Decane
Dodecane
Ethane
Heptane
Hexane [2]
Methane
Nonane
Octane
Pentane
Propane
Waxes:
Paraffin

32. Aromatic Hydrocarbons

•Alkyl acrylate-Vinyl pyridine copolymer in Toluene
Benzene
Benzene, Hydrocarbon mixtures (10 pct. Benzene or more)
Benzene, Toluene, Xylene mixtures
•Butyl benzene
Cumene
Cymene
Decyl benzene
Diethylbenzene
Diisopropyl benzene
Diisopropyl naphthalene
•Diphenyl
Dodecylbenzene
Ethyl benzene
•Ethyl toluene
Industrial waste (containing Dimethyldisulfide, Methyl mercaptan, and Methomyl)
•Isopropylbenzene
Methyl naphthalene
Naphthalene
•1-Phenyl-1-xylyl ethane
Pseudocumene
Tetradecylbenzene
Tetrahydronaphthalene
Toluene
Tridecylbenzene
Triethyl benzene
Trimethyl benzene
Undecylbenzene
Xylene

33. Miscellaneous Hydrocarbon Mixtures

Asphalt blending stocks, roofers flux
Asphalt blending stocks, straight run residue
Calcuim sulfonate, Calcium carbonate, Hydrocarbon solvent mixture
Carbon black base
•Coal tar oil
•Coal tar pitch
Diphenyl, Diphenyl oxide
Distillates, flashed feed stocks
Distillates, straight run
Fatty acid amides
Fuel oils:
No. 1
No. 1-D
No. 2
No. 2-D
No. 4
No. 5

No. 6
Gas oil, cracked
Gasoline blending stock, alkylates
Gasoline blending stock, reformates
Gasolines:
Automotive (not over 4.23 grams lead per gal.)
Aviation (not over 4.86 grams lead per gal.)
Casinghead (natural)
Polymer
Straight run
Glycols, Resins, and Solvents mixture
Herbicide (C15-H22-NO2-Cl)
Jet Fuels:
JP-1
JP-3
JP-4
JP-5
Kerosene
Magnesium nonyl phenol sulfide
Maleic anhydride copolymer
Mineral spirits
Miscellaneous oils, including:
Absorption
Aliphatic
Aromatic (5 pct. or less Benzene)
Coal Tar
Heartcut distillate
Linseed
Lubricating
Mineral
Mineral seal
Motor
Neatsfoot
Penetrating
Pine
Range
Resin
Resinous petroleum
Rosin
Sperm
Spindle
Spray
Tanner's
Turbine
White (mineral)
Naphtha:
Coal tar
Cracking fraction [2]
Petroleum
Solvent
Stoddard solvent
Varnish Makers' and Painters'
Nonyl phenolsulfide solution
Oxyalkylated alkyl phenol formaldehyde
Oils:
Clarified
Coal
Crude
Diesel
Residual
Road
Transformer
Petrolatum
•Pine oil
Polyalkenyl succinic anhydride amine
•White spirit (low (15-20%) aromatic

34. Esters

Acetyl tributyl citrate
Alkyl phthalates
Amyl acetate
Amyl tallate
Butyl acetate
Butyl benzyl phthalate
Butyl formate
•Calcium naphthenate in Mineral oil
Dibutyl phthalate
Diethylene glycol monobutyl ether acetate
Di-(ethylhexyl)phthalate
•Diethyl phthalate
Diethyl sulfate
Diheptyl phthalate
Di-n-hexyl adipate
•Diisobutyl phthalate
Diisodecyl phthalate
Diisononyl adipate
Diisononyl phthalate
Diisooctyl phthalate
Dimethyl adipate
Dimethylcyclicsiloxane hydrolyzate
Dimethyl glutarate
Dimethyl hydrogen phosphite [2]
Dimethyl phthalate
Dimethyl polysiloxane
Dimethyl succinate
Dinonyl phthalate
Dioctyl phthalate
Dipropylene glycol dibenzoate
Diundecyl phthalate
Edible oils, including:
Babassu
Castor
Coconut [2]
Coconut, methyl ester
Corn
Cotton seed
Cotton seed, fatty acid
Fish [2]
Lard
Olive
Palm [2]
Peanut
Rapeseed
Rice bran
Safflower
Soya bean
Sunflower seed
Tucum
Vegetable
•2-Ethoxyethyl acetate
Ethyl acetate
Ethyl acetoacetate
Ethyl butyrate
•Ethylene glycol diacetate
Ethylene glycol monobutyl ether acetate
Ethylene glycol ethyl ether acetate
•Ethyl-2-ethoxypropionate
•Ethyl hexyl phthalate
Ethyl hexyl tallate
Ethyl propionate
Glyceryl triacetate
Glycidyl ester of Versatic acid
Glycol diacetate
•Heptyl acetate
•Hexyl acetate
•iso-Butyl isobutyrate
•Magnesium sulfonate
Methyl acetate
Methyl acetoacetate
Methyl amyl acetate
Methyl butyrate
Methyl formate
•Methyl salicylate
Miscellaneous oils, including:
Soapstock
Tall
Tall, fatty acid [2]
Tung
Octyl epoxytallate
Octyl nitrate [2]
Polydimethylsiloxane
Polymethylsiloxane
Propyl acetate
Sodium dimethyl naphthalene sulfonate solution [2]
•Sodium naphthalene sulfonate solution
•Tall oil
Tallow [2]
Tallow fatty acid [2]
Triarylphosphate
Tributyl phosphate
•Tricresyl (Tritolyl) phosphate
Tridecane
Triethyl phosphate
Triethyl phosphite [2]
Triisooctyl trimellitate [2]
2,2,4-Trimethyl pentanediol-1,3-diisobutyrate
•2,2,4-Trimethyl-1,3-pentanediol-1-isobutyrate
2,2,4-Trimethyl-3-pentanol-1-isobutyrate
•Trimethyl phosphite [2]
Trisodium nitrilotriacetate
•Trixylenyl phosphate
Vinyl acetate-Fumarate copolymer
Waxes:
Carnauba

35. Vinyl Halides

Vinyl chloride
Vinylidene chloride

36. Halogenated Hydrocarbons

Benzyl chloride
Carbon tetrachloride
Chlorobenzene
Chlorodifluoromethane
Chloroform
Chlorotoluene
Dichlorobenzene
Dichlorodifluoromethane
1,1-Dichloroethane
2,2'-Dichloroisopropyl ether
Dichloromethane (Methylene chloride)
Dichloropropane
Ethyl chloride
Ethylene dibromide
Ethylene dichloride [2]
Methyl bromide
Methly chloride
Monochlorodifluoromethane
Pentachloroethane
Perchloroethylene
1,1,2,2-Tetrachloroethane
1,2,4-Trichlorobenzene
1,1,1-Trichloroethane [2]
1,1,2-Trichloroethane
Trichloroethylene [2]
1,2,3-Trichloropropane
1,1,2-Trichloro-1,2,2-trifluoroethane

37. Nitriles

Acetonitrile
Adiponitrile
•Lactonitrile solution
3-Pentenenitrile
Propionitrile
Tallow nitrile

38. Carbon Disulfide

Carbon disulfide

39. Sulfolane

Sulfolane

40. Glycol Ethers

Diethylene glycol
Diethylene glycol monobutly ether
Diethylene glycol monoethyl ether
Diethylene glycol monomethly ether
Diethylene glycol monophenyl ether
Dipropylene glycol
Edible oils Soybean (epoxidized)
Ethoxy triglycol
Ethylene glycol monobutyl ether
Ethylene glycol monoethyl ether
Ethylene glycol monoisopropyl ether
Ethylene glycol monomethly ether
Ethylene glycol phenyl ether
Methoxy triglycol
Nonyl phenol (ethoxylated)
Polyethylene glycols
Polypropylene glycol methyl ether
Polypropylene glycols
Tetraethylene glycol
Triethylene glycol
Triethylene glycol butyl ether mixture
Triethylene glycol ether mixture
Tripropylene glycol
Tripropylene glycol monomethyl ether

41. Ethers

Butyl ether
2,2'-Dichloroethyl ether
Digylcidyl ether of Bisphenol A
Dimethyl furan
1,4-Dioxane
•Diphenyl ether
Diphenyl oxide, Diphenyl phenyl ether mixture
Ethyl ether
Methyl-tert-butyl ether [2]
Methyl formal
Propyl ether
Tetrahydrofuran

42. Nitrocompounds

Chloronitrobenzene, see o-Nitrochlorobenzene
•Dinitrotoluene
Nitrobenzene
o-Nitrochlorobenzene
Nitroethane
Nitropropane
Nitropropane, Nitroethane mixture
Nitrotoluene

43. Miscellanous Water Solutions

•Aluminum sulfate solution [2]
•2-Amino-2-hydroxymethyl-1,3-propanediol solution
Ammonium bisulfite solution [2]
Ammonium nitrate, Urea solution (not containing Ammonia)
Ammonium polyphosphate solution
Ammonium sulfate solution
•Ammonium thiosulfate solution
Calcium bromide solution
•Calcium bromide, Zinc bromide solution
Calcium chloride solution
Corn syrup
Dextrose solution
Diammonium salt of Zinc EDTA solution
2,4-Dichlorophenoxy acetic acid, Diethanolamine salt solution
•2,4-Dichlorophenoxyacetic acid, Triisopropanolamine salt solution [2]
Diethanolamine salt of 2,4-Dichlorophenoxy acetic acid solution
Dodecyl diphenyl oxide disulfonate solution
Ethylene-Vinyl acetate copolymer emulsion
•Fumaric adduct of Rosin, water dispersion
Kaolin clay slurry
Latex, liquid synthetic
Lignin liquor
Polyvinylbenzyltrimethyl ammonium chloride solution
•Rosin soap (disproportionated solution)
Sewage sludge
•Sodium alkyl sulfonate solution
•Sodium hydrogen sulfite solution
Sodium polyacrylate solution [2]
Sodium salt of Ferric hydroxyethylethylenediamine triacetic acid solution
Sodium silicate solution [2]
•Tall oil soap (disproportionated solution)
Tetrasodium salt of EDTA solution
Triisopropanolamine salt of 2,4-Dichlorophenoxyacetic acid solution
Urea, Ammonium nitrate solution (not containing Ammonia)
•Zinc bromide, Calcium bromide solution

Footnotes to Table II

[1] Because of very high reactivity or unusual conditions of carriage or potential compatibility problems, this product is not assigned to a specific group in the Compatibility Chart. For additional compatibility information, contact Commandant (G-MTH), U.S. Coast Guard, 2100 Second Street, SW., Washington, D.C. 20593-0001. Telephone (202) 267-1577.

[2] See Appendix I - Exceptions to the Chart.

Appendix I - Exceptions to the Chart

(Entries in **boldface** are newly authorized exceptions to 46 CFR Part 150)

(a). The binary combinations listed below have been tested as prescribed in Appendix III and found not to be dangerously reactive. These combinations are exceptions to the Compatibility Chart (Figure 1) and may be stowed in adjacent tanks.

Member of reactive group	Compatible with
Acetone (18)	**Diethylenetriamine (7)**
Acetone cyanohydrin (0).	Acetic acid (4)
Acrylonitrile (15)	Triethanolamine (8)
1,3-Butylene glycol (20).	Morpholine (7)
1,4-Butylene glycol (20).	**Ethylamine (7)** **Triethanolamine (8)**
Caustic potash, 50 pct. or less (5).	Ethyl alcohol (20) Methyl alcohol (20) iso-Octyl alcohol (20)
Caustic soda, 50 pct. or less (5).	Butyl alcohol (20) tert-Butyl alcohol, Methanol mixtures Decyl alcohol (20) Diacetone alcohol (20) Diethylene glycol (40) Ethyl alcohol (20) **Ethyl alcohol (40%, whiskey) (20)**
Dodecyl and Tetradecylamine mixture (7).	Tall oil, fatty acid (34)
Ethylenediamine (7)	Butyl alcohol (20) **tert-Butyl alcohol (20)** Butylene glycol (20) Creosote (21) Diethylene glycol (40) Ethyl alcohol (20) Ethylene glycol (20) Ethyl hexanol (20) Glycerine (20) Isononyl alcohol (20) Isophorone (18) Methyl butyl ketone (18) Methyl iso-butyl ketone (18) Methyl ethyl ketone (18) Propyl alcohol (20) Propylene glycol (20)
Oleum (0)	Hexane (31) Dichloromethane (Methylene chloride) (36) **Perchloroethylene (36)**
1,2-Propylene glycol (20).	**Diethylenetriamine (7)** **Polyethylene polyamines (7)** **Triethylenetetramine (7)**
Sulfuric acid (2)	Coconut oil (34) Coconut oil acid (34) Palm oil (34) Tallow (34)
Sulfuric acid, 98 pct. or less (2).	Choice white grease tallow (34)
Ethylene glycol (20) Ethylene glycol, Diethylene glycol mixture (20) Ethyl hexanol (Octyl alcohol) (20) Methyl alcohol (20) Nonyl alcohol (20) Propyl alcohol (20) Propylene glycol (20) Sodium chlorate (0) **Iso-Tridecanol (20)**	

(b). The binary combinations listed below have been determined to be dangerously reactive, based on either data obtained in the literature or on laboratory testing which has been carried out in accordance with procedures prescribed in Appendix III. These combinations are exceptions to the Compatibility Chart (Figure 1) and may not be stowed in adjacent tanks.

Acetone cyanohydrin (0) is not compatible with Groups 1-12, 16, 17 and 22.

Acrolein (19) is not compatible with Group 1, Non-Oxidizing Mineral Acids.

Acrylic acid (4) is not compatible with Group 9, Aromatic Amines.

Alkyl benzene sulfonic acid (0) is not compatible with Groups 1-3, 5-9, 15, 16, 18, 19, 30, 34, 37, and strong oxidizers.

Allyl alcohol (15) is not compatible with Group 12, Isocyanates.

Aluminum sulfate solution (43) is not compatible with Groups 5-11.

Ammonium bisulfite solution (43) is not compatible with Groups 1, 3, 4, and 5.

Benzenesulfonyl chloride (0) is not compatible with Groups 5-7, and 43.

gamma-Butyrolactone (0) is not compatible with Groups 1-9.

Crotonaldehyde (19) is not compatible with Group 1, Non-Oxidizing Mineral Acids.

Cyclohexanone, Cyclohexanol mixture (18) is not compatible with Group 12, Isocyanates.

2,4-Dichlorophenoxyacetic acid, Triisopropanolamine salt solution (43) is not compatible with Group 3, Nitric Acid.

Dimethylene salt of 2,4-Dichlorophenoxyacetic acid solution (0) is not compatible with Groups 1-5, 11, 12, and 16.

Dimethyl hydrogen phosphite (34) is not compatible with Groups 1 and 4.

Dodecylbenzenesulfonic acid (0) is not compatible with oxidizing agents and Groups 1, 2, 3, 5, 6, 7, 8, 9, 15, 16, 18, 19, 30, 34, and 37.

Ethyl chlorothioformate (0) is not compatible with Groups 5, 6, 7, 8, and 9.

Ethylenediamine (7) is not compatible with Ethylene dichloride (36).

Ethylene dichloride (36) is not compatible with Ethylenediamine (7).

Ethylidene norbornene (30) is not compatible with Groups 1-3 and 5-8.

2-Ethyl-3-propylacrolein (19) is not compatible with Group 1, Non-Oxidizing Mineral Acids.

Fish oil (34) is not compatible with Sulfuric acid (2).

Formaldehyde (over 50%) in Methyl alcohol (over 30%) (19) is not compatible with Group 12, Isocyanates.

Formic acid (4) is not compatible with Furfural alcohol (20).

Furfuryl alcohol (20) is not compatible with Group 1, Non-Oxidizing Mineral Acids and Formic acid (4).

2-Hydroxyethyl acrylate is not compatible with Groups 2, 3, 5-8 and 12.

Isophorone (18) is not compatible with Group 8, Alkanolamines.

Magnesium chloride solution (0) is not compatible with Groups 2, 3, 5, 6 and 12.

Mesityl oxide (18) is not compatible with Group 8, Alkanolamines.

Methyl tert-butyl ether (41) is not compatible with Group 1, Non-oxidizing Mineral Acids.

Naphtha, cracking fraction (33) is not compatible with strong acids, caustics or oxidizing agents.

o-Nitrophenol (0) is not compatible with Groups 2, 3, and 5-10.

Octyl nitrates (all isomers) (34) is not compatible with Group 1, Non-oxidizing Mineral Acids.

Oleum (0) is not compatible with Sulfuric acid (2) and **1,1,1-Trichloroethane (36).**

Pentene, Miscellaneous hydrocarbon mixtures (30) are not compatible with strong acids or oxidizing agents.

Sodium chlorate solution (50% or less) (0) is not compatible with Groups 1-3, 5, 7, 8, 10, 12, 13, 17 and 20.

Sodium dichromate solution (70% or less) (0) is not compatible with Groups 1-3, 5, 7, 8, 10, 12, 13, 17 and 20.

Sodium dimethyl naphthalene sulfonate solution (34), is not compatible with Group 12, Formaldehyde and strong oxidizing agents.

Sodium polyacrylate solution (43) is not compatible with Group 3, Nitric Acid.

Sodium salt of Ferric hydroxyethylethylenediamine triacetic acid solution

Sodium silicate solution (43) is not compatible with Group 3, Nitric Acid.

Sodium thiocyanate (56% or less) (0) is not compatible with Groups 1-4.

Sulfuric acid (2) is not compatible with Fish oil (34), or Oleum (0).

Tallow fatty acid (34) is not compatible with Group 5, Caustics.

1,1,1-Trichloroethane (36) is not compatible with Oleum (0).

Trichloroethylene (36) is not compatible with Group 5, Caustics.

Triethyl phosphite (34) is not compatible with Groups 1, and 4.

Trimethyl phosphite (34) is not compatible with Groups 1 and 4.

Dated: May 22, 1987.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 87-12116 Filed 6-3-87; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Gen. Docket No. 86-225; FCC 87-94]

Regulations Concerning Ex Parte Communications and Presentations in Commission Proceedings

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts this *Report and Order* which revises the Subpart H, Part 1 of the Commission's Rules and Regulations relating to ex parte communications and presentations governing Commission proceedings. Adoption of the new rules clarifies and streamlines existing ex parte practice and procedure.

EFFECTIVE DATE: July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Steve Bailey or Susan Steiman, Administrative Law Division, Office of General Counsel, Washington, DC 20554, (202) 254-6530 or 632-6990.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in Gen. Docket No. 86-225, adopted March 9, 1987, and released May 22, 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, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Report and Order

1. On June 5, 1986, the Commission instituted a sweeping review of its ex parte rules, *Notice of Proposed Rule Making in Gen. Docket 86-225*, 51 FR 26278 (July 22, 1986), which represented the agency's first major, across-the-board reexamination of the rules since 1965, when the Commission first adopted comprehensive ex parte rules to govern adjudicative proceedings and formal ("on the record") proceedings.

2. As a result of issuance of this notice, the Commission elicited comments and reply comments from various entities and groups. The Commission has reviewed the submissions in the proceeding and, after giving them careful consideration, it has adopted new ex parte rules. In general, the new rules, with certain exceptions parallel the recommendations in the *Notice*. Most of the proposals it is adopting were endorsed by the commenters in the proceeding.

3. As suggested in the *Notice*, the object of the ex parte rules is to ensure that agency decisions are based upon a publicly available record rather than influenced by off-the-record private communications between decision-makers and outside persons. In addition, the ex parte rules are intended to ensure the adequacy and completeness of a record to enable effective judicial review of the agency's action. At the same time, these procedures must allow the Commission sufficient flexibility to obtain necessary information and evidence for reasoned decisionmaking.

4. The major purposes achieved by this *Report and Order* is to simplify the rules by making them easier to understand and apply, to clarify their applicability in areas where questions have arisen, and to remedy problems which have occurred under the old rules.

5. Besides recasting the rules into a simpler format, the Commission has adopted the following major changes:

—Clarified that the ex parte prohibitions apply to presentations both *to* and *from* decision-making personnel in restricted proceedings;

—Clarified that status inquiries, *whether solicited or not*, are exempt from ex parte prohibitions.

—Redefined decision-making personnel for purposes of both "non-restricted" and "restricted" proceedings to include any agency person "who is or may reasonably be expected to be involved" in the decision-making process in the proceeding;

—Clarified that ex parte restraints apply to "contested" adjudicative proceedings in which a "formal opposition" or "formal complaint" has been filed;

—Clarified that only "formal oppositions or complaints," not informal oppositions or objections, will trigger the application of ex parte constraints in adjudicative proceedings;

—Clarified that tariff proceedings are exempt from ex parte requirements unless they have been set for investigation or designated for hearing and that, after designation, "permit but disclose" procedures would generally apply;

—Clarified that the "permit but disclose" ex parte procedures applicable to most informal rulemaking proceedings apply to any notice of inquiry proceeding that could lead to a change in policy intended to be binding as a matter of law;

—Clarified that *any* presentations, *whether ex parte or not*, would be prohibited in non-restricted proceedings from the time that any such proceeding has been placed on the Sunshine Agenda for Commission consideration; and

—Clarified that the Managing Director will provide notice to the parties to a proceeding when a prohibited ex parte presentation has occurred but that he shall not be required to serve copies of the prohibited presentation except if he determines that there are public interest reasons that warrant service of such information.

6. The Commission has also made certain other clarifications, simplications, and modifications of its ex parte rules, procedures, and policies as indicated below.

7. Accordingly, the Commission concludes, after careful consideration, that the new rules adopted in this *Report and Order* promote the broad public interest by balancing the competing interests of enhancing the public's confidence and trust in the integrity of the Commission's decision-making processes and permitting the agency to acquire information necessary to fulfill its regulatory mission.

8. The rules adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burdens on the public. Implementation of these new/modified requirements and burdens will be subject to approval of the Office of Management and Budget as prescribed by the Act.

9. In the *Notice* of this proceeding, the Commission appended an Initial Regulatory Flexibility Analysis under section 603 of the Regulatory Flexibility Act of 1980, 5 U.S.C. 603 but received no comments in response thereto. Because the ex parte rules adopted relate to Commission practice and procedure, the Commission was not required to promulgate them under section 553 of the APA and, accordingly, no final regulatory flexibility analysis is required under section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604.

10. Accordingly, *It Is Ordered* that the Rules and Regulations of the Federal Communications Commission *are amended* in the manner indicated in this order.

11. *It Is Further Ordered* that these amendments to the Commission's Rules *Shall Become Effective* on July 6, 1987.

12. *It Is Further Ordered* that this proceeding is *Terminated*.

13. Authority for this action is contained in sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 154(j), and 303(r).

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 1—[AMENDED]

Part 1 (Practice and Procedure) of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

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

Authority: Sec. 4, 303, 409, 48 Stat. 1066, 1082, 1096, as amended; 47 U.S.C. 154, 303, 409.

2. Subpart H is revised to read as follows:

Subpart H—Ex Parte Communications

General

Sec.

1.1200 Introduction.

1.1202 Definitions.

Sunshine Period Prohibition

1.1203 Sunshine Period Prohibition.

General Exemptions

1.1204 General Exemptions.

Non-Restricted Proceedings

1.1206 Non-restricted proceedings; es parte presentations generally permissible but subject to disclosure.

Restricted Proceedings

1.1208 Restricted proceedings.

Prohibition on Solicitation of Ex Parte Presentations

1.1210 Prohibition on Solicitation of Ex Parte Presentations.

Procedures for Handling of Prohibited Ex Parte Presentations

1.1212 Procedures for Handling of Prohibited Ex Parte Presentations.

Sanctions

1.1214 Sanctions.

Subpart H—Ex Parte Communications

General

§ 1.1200 Introduction.

(a) *Purpose.* To ensure that the Commission's decisional processes are fair, impartial, and otherwise comport with the concept of due process, the Commission has prescribed rules and regulations governing ex parte communications. These rules and regulations, which are designed to deter improper communications and maintain the utmost public confidence in Commission proceedings, specify standards of conduct and procedures to be followed with regard to ex parte presentations in Commission proceedings and provide for the imposition of sanctions for violations of these standards and procedures. Where the public interest so requires in a particular proceeding, the Commission retains the discretion to issue public notices setting forth modified or more stringent ex parte procedures.

(b) *General applicability.* These rules set forth the ex parte requirements that apply in various types of Commission proceedings. Following § 1.1202 (Definitions), the rules describe three general classes of FCC proceedings.

First, § 1.1204(a) lists types of proceedings in which there are no ex parte restrictions. In these proceedings, parties and Commission decision makers may communicate freely, without regard to the prohibitions and disclosure requirements of these ex parte rules. Next, § 1.1206(c) lists proceedings that are classified as "non-restricted." In non-restricted proceedings, parties and Commission decision-makers are permitted to engage in ex parte communications but certain disclosure requirements must be met. Finally, § 1.1208(c) lists proceedings that are classified as "restricted." In restricted proceedings, ex parte communications are generally prohibited. In all proceedings, including exempt proceedings, certain periods are set aside during which all communication with Commission personnel is prohibited. *See* § 1.1203. In addition, the prohibitions and requirements applicable to "restricted" and "non-restricted" proceedings are subject to certain general exceptions, which are listed in § 1.1204(b). Therefore, § 1.1204(b) should always be examined to determine whether a seemingly prohibited ex parte communication may be permissible.

Note.—Inquiries concerning the propriety of ex parte communications should be directed to the Office of General Counsel.

§ 1.1202 Definitions.

(a) *Presentation.* Any communication directed to the merits or outcome of a proceeding. Excluded from this term is a communication which is inadvertently or casually made, or a communication which is an inquiry or request for information relating solely to the status of a proceeding. A status inquiry which states or implies a preference for a particular party or position in a proceeding, or which states why timing is important to a particular party, or which in any other manner is intended as a means, direct or indirect, to address the merits or outcome, or influence the timing, of a proceeding is a presentation.

(b) *Ex parte presentation.* Any presentation made *to* decision-making personnel but, in restricted proceedings, any presentation *to* or *from* decision-making personnel, which:

(1) If written, is not served on the parties to the proceeding, or

(2) If oral, is made without advance notice to the parties to the proceedings and without opportunity for them to be present.

Comments and reply comments in informal rule making proceedings pursuant to §§ 1.415 and 1.419 are not considered ex parte presentations even if they are not served on other parties.

(c) *Decision-making personnel.* Any member, officer or employee of the Commission who is or may reasonably be expected to be involved in the decisional process in the proceeding. Unless otherwise specified, such persons usually include the Commissioners, their assistants, and other professional personnel of the Commission. Any person who has been made a party to a proceeding or who otherwise has been excluded from the decisional process shall not be treated as a decision-maker with respect to that proceeding. Thus, any person designated as part of a separated trial staff shall not be considered a decision-making person in the designated proceeding. Unseparated Bureau or Office staff who may reasonably be expected to become involved in the decisional process of the proceeding shall be considered decision-making personnel.

(d) *Adjudicative proceeding.* Any proceeding, other than a rule making or a tariff proceeding involving future rates or practices, initiated upon the Commission's own motion or upon the filing of an application, a petition for special relief or waiver, or a complaint or similar pleading that involves the determination of rights and responsibilities as between specific parties.

(e) *Formal opposition or formal complaint.* (1) A pleading opposing the grant of a particular application, waiver request, petition for special relief or other request for Commission action, or a pleading in the nature of a complaint (other than a section 208 complaint), which meets the following requirements:

(i) The caption and text of a pleading make it unmistakably clear that the pleading is intended to be a formal opposition or formal complaint;

(ii) The pleading is served upon the other parties to the proceeding or, in the case of a complaint, upon the person subject to the complaint; and

(iii) The pleading is filed within the time period, if any, prescribed for such a pleading;

(2) A formal complaint under section 208 of the Communications Act if it meets the requirements of § 1.721 *et seq.* of the Commission's Rules (formal complaints against common carriers).

(f) *Sunshine Agenda period.* For purposes of this subpart, the Sunshine Agenda period is defined as the period of time that commences with release of a public notice that a matter has been placed on the Sunshine Agenda and that terminates when the Commission:

(i) Releases a final order, or

(ii) Issues a public notice stating that the matter has been deleted from the Sunshine Agenda, or

(iii) Issues a public notice stating that the matter has been returned to the staff for further consideration,

whichever one of the above occurs first.

Sunshine Period Prohibition

§ 1.1203 Sunshine period prohibition.

(a) Unless exempted under § 1.1204(b), the making of any presentation, whether ex parte or not, to decision-making personnel concerning matters listed on the Sunshine Agenda is prohibited during the Sunshine Agenda period. *See* § 1.1202(f).

(b) The prohibition on presentations in § 1.1203(a) above shall not apply to responses to ex parte presentations that are requested under § 1.1204(b)(7) or to presentations regarding settlement agreements.

General Exemptions

§ 1.1204 General Exemptions.

(a) *Proceedings in which no ex parte restrictions apply.* Subject to the provisions of §1.1203 (Sunshine Period Prohibition) and §1.1208(b) (Restricted Proceedings), there are no ex parte restraints or disclosure requirements in the following types of proceedings:

(1) An adjudicative proceeding as defined in § 1.1202(d) unless it

(i) Is formally opposed or involves a formal complaint (*see* § 1.1202(e)); or

(ii) Involves mutually exclusive applications; or

(iii) Has been designated for hearing (*see* § 1.1208(c)(1)(i)).

(2) A pending petition for rule making unless it

(i) Involves the allotment of a channel in the radio broadcast or television broadcast services, and

(ii) Is formally opposed (*see* § 1.1208(c)(2)).

(3) A request for information which is filed pursuant to the Freedom of Information Act, 5 U.S.C. 552, unless it is formally opposed.

Note.—In proceedings exempted by § 1.1204(a)(1) through (3), oral ex parte communications are permissible, but only between the Commission and the formal party involved or his representative. Any informal objectors (whether their objections are oral or written) are subject to ex parte procedures set forth in § 1.1208 barring oral ex parte contacts except where confidentiality is necessary to protect these persons from possible reprisals. Oral communications between Commission staff and advisory coordinating committee members with respect to coordination of assignment of frequencies in the private land mobile services and fixed services authorized

under section 331 of the Communications Act are not prohibited.

(4) A notice of inquiry proceeding unless the Commission states otherwise, *see* § 1.1206(b)(2).

(5) A proceeding involving an informal complaint against a carrier under section 208 of the Communications Act (*see* § 1.711 of the Rules) unless it has been designated for hearing.

(6) A tariff proceeding under section 203, 204, or 205 of the Communications Act unless it has been set for investigation, (*see* § 1.1206(b)(6).

(b) *Exempt Ex Parte Presentations.* The following types of ex parte presentations are exempt from the prohibitions and requirements in § 1.1206 (non-restricted proceedings) and § 1.1208 (restricted proceedings) as follows:

(1) The presentation is authorized by statute or by the Commission's Rules, *see, e.g.*, § 1.333(d).

(2) The presentation is made by or to the General Counsel or his or her staff and concerns judicial review of a matter which has been decided by the Commission.

(3) The presentation directly relates to an emergency in which the safety of life is endangered or substantial loss of property is involved; provided however, that if the presentation is oral, a written summary of the presentation shall be filed within a reasonable period of time thereafter.

(4) The presentation involves a military or foreign affairs function of the United States or classified security information.

(5) The presentation is to or from staff of an agency of the Federal Government and involves a matter over which that agency and the Commission share jurisdiction.

(6) The presentation is between Commission staff and an advisory coordinating committee member with respect to the coordination of frequency assignments to stations in the private land mobile services or fixed services as authorized by section 331 of the Communications Act.

(7) The presentation is requested by the Commission or staff for the clarification or adduction of evidence or for resolution of issues, and the proceeding is a restricted proceeding which has not been designated for hearing, a non-restricted proceeding or an exempt proceeding.

Note.—In a restricted proceeding, any new written information elicited from such a request and a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding. Where such service would be unduly burdensome because parties to the proceeding are numerous or because the materials relating to the presentation are voluminous, the Commission may waive such service by issuing a public notice which states that copies of the presentation and/or materials relating to it are available for public inspection and by including copies of the presentation and/or materials relating to it in the record of the proceeding. In a non-restricted proceeding, any new information elicited from such a request shall be disclosed in accordance with the procedures set forth in Section 1.1206. Any new information received during the Sunshine period shall be fully disclosed in accordance with the above procedures or by other adequate means of notice the Commission deems appropriate.

Non-Restricted Proceedings

§ 1.1206 Non-restricted proceedings; ex parte presentations generally permissible but subject to disclosure.

(a) Except as provided during the Sunshine Agenda period (*see § 1.1203*), *ex parte presentations are permissible in non-restricted proceedings if the following disclosure requirements are met:*

(1) *Written ex parte presentations made by persons outside the Commission.* Any person who makes or submits a written ex parte presentation shall provide on the same day it is submitted a copy of same under separate cover to the Commission's Secretary for inclusion in the public record. The presentation must indicate on its face the docket number of the particular proceedings(s) to which it relates and the fact that a copy of it has been submitted to the Secretary.

(2) *Oral ex parte presentations made by persons outside the Commission.* Any person who in making an oral ex parte presentation presents data or arguments not already reflected in that person's written comments, memoranda, or other previous filings in that proceeding shall provide on the day of the oral presentation a written memorandum to the Secretary (with a copy to the Commissioner or staff member involved) which summarizes the data and arguments.

(3) *Ex parte presentations requested by persons within the Commission and spontaneous ex parte presentations.* A decision making person who requests an ex parte presentation should advise the person making the presentation that the presentation must be reflected in the public record before the Commission issues a final order in the relevant proceeding. Any person who makes a presentation under this paragraph shall comply with the requirements of paragraph (a)(1) or paragraph (a)(2), whichever is applicable.

(4) *Notice of ex parte presentations.* The Commission's Secretary shall place in the public file or record of the proceeding written ex parte presentations and memoranda reflecting oral ex parte presentations. The Secretary shall issue a public notice listing any written ex parte presentations or written summaries of oral ex parte presentations received by his office during the preceding week relating to any non-restricted proceeding.

(b) Unless otherwise ordered by the Commission, a non-restricted proceeding includes the following:

(1) An informal rule making proceeding conducted under section 553 of the Administrative Procedure Act (upon Commission adoption of a notice of proposed rule making), unless the proceeding concerns the allotment of a specific channel in the radio or television broadcast services, *see* § 1.1208(c)(2).

(2) An inquiry proceeding (upon Commission adoption of a notice of inquiry) where the Commission specifically states the proceeding is "non-restricted" because it contemplates adoption of a binding policy determination.

(3) A proceeding conducted pursuant to section 220(b) of the Communications Act for prescription of common carrier depreciation rates (upon release of a public notice of specific proposed depreciation rates for a carrier or carriers).

(4) A petition or request for declaratory ruling at the time a formal opposition to the petition has been filed.

(5) A rule making proceeding conducted pursuant to section 201(a), 213(a), 221(c) or 222 of the Communications Act or section 201(c)(2) or 201(c)(5) of the Communications Satellite Act of 1962, if the proceeding has been formally opposed or has been set for investigation by the Commission.

(6) A tariff proceeding which has been set for investigation by the Commission under section 204 or 205 or a rate of return proceeding under Title II of the Communications Act.

Note.—Proceedings under the statutory provisions listed in §§1.1206(b)(5) and 1.1206(b)(6) that pertain primarily to *past* rates or practices of common carriers may be adjudicative proceedings subject to the provisions of section 1.1208. *See* 5 U.S.C. 551(4); 47 U.S.C. 409(c)(1)(2)(d); *AT&T v. FCC*, 449 F.2d 439 (2d Cir. 1971).

(7) A proceeding under section 221(a) (telephone acquisitions and consolidations) of the Communications Act from the time a formal request for

hearing has been made by an entity specified in that section.

(8) A proceeding under section 214(a) (extension of lines) of the Communications Act at the time a formal opposition has been filed and prior to designation for hearing, *see* § 1.1208(c)(3).

(9) A proceeding involving a request for information filed pursuant to the Freedom of Information Act, 5 U.S.C. 552, upon the filing of a formal opposition to the request or, in a proceeding where the requested information is the subject of a request for confidentiality, upon the filing of the FOIA request.

Restricted Proceedings

§ 1.1208 Restricted Proceedings.

(a) Unless exempted under § 1.1204(b), ex parte presentations are prohibited in restricted proceedings. The prohibition continues in effect until the proceeding has been decided or a settlement or agreement by the parties has been approved by the Commission and such decision or approval is no longer subject to reconsideration by the Commission or to review by any court.

(b) No person shall make an ex parte presentation in a proceeding that could become restricted even though the proceeding is not restricted at the time if:

(1) That person intends to file a mutually exclusive application which would cause the proceeding to become restricted; or

(2) That person intends to file an opposition, complaint, or objection which would cause the proceeding to become restricted.

Note.—The prohibition in § 1.1208(b)(2) is inapplicable to complaint proceedings under section 208 of the Communications Act.

(c) Unless governed by § 1.1204 or § 1.1206, the following are restricted proceedings:

(1)(i) Any adjudicative proceeding, including any proceeding conducted pursuant to section 303(l) (classification and qualifications of radio station operators); section 303(m) (suspension of radio licenses); sections 308 and 309 (application for licenses); section 310 (holding and transfer of licenses); section 312 (administrative sanctions); section 315 (facilities for candidates for public office); section 316 (modification of construction permits or licenses) of the Communications Act; special relief or waiver proceedings under the above sections; or cable television special relief or waiver proceedings.

Note.—*See also* Note to § 1.1204 (a)(1) through (3).

(ii) Any proceeding under section 206 (liability of carriers for damages); section 207 (recovery of damages); section 208 (complaints); section 212 (interlocking directorates); section 214(d) (line extensions); section 224(b)(1) (pole attachments) of the Communications Act.

(iii) Any proceeding under sections 201(c)(6), (7), (9) or 304(f) of the Communications Satellite Act of 1962.

(iv) From the day on which any of the following has occurred:

(A) The release of an order designating the proceeding for hearing (unless a hearing has been subsequently waived pursuant to § 1.92 of this chapter);

(B) The filing of a formal opposition or formal complaint;

(C) The release of a public notice apprising the public of the filing of a mutually exclusive application *provided, however,* that if a person has actual knowledge that a mutually exclusive application has been filed prior to the release of the public notice, that person is prohibited from making an ex parte presentation from the moment of such actual knowledge. The term "public notice" as used in this subsection means the public notice issued at regular intervals listing all applications and major amendments thereto which have been tendered (or, in non-broadcast services, accepted) for filing. (*See* §§ 1.564(c), 1.962(e) and 21.27(b) of this chapter.) When the Commission issues a specific public notice stating that there is a possibility of conflict between the applications, then the term "public notice" shall refer to the specific public notice rather than that issued at regular intervals.

(2) An informal rule making proceeding concerning the allotment of a channel in the radio broadcast or television broadcast services (*see Sangamon Valley Television Corporation v. United States,* 269 F.2d 221, 224 (DC Cir. 1959)) at the time of adoption of the notice of proposed rule making or the filing of an opposition to a petition for rule making, whichever is earlier.

(3) A proceeding conducted pursuant to section 214(a) of the Communications Act that has been designated for hearing.

(4) Any other proceeding that the Commission designates as restricted.

Prohibition on Solicitation of Ex Parte Presentations

§ 1.1210 Prohibition on solicitation of Ex Parte Presentations.

No person shall solicit or encourage others to make any ex parte presentation which he or she is prohibited from making under the provisions of this subpart.

Procedures for Handling of Prohibited Ex Parte Presentations

§ 1.1212 Procedures for Handling of Prohbited Ex Parte Presentations.

(a) If a prohibited oral ex parte presentation is initiated, the person to whom it is addressed shall advise the person initiating it that the presentation is prohibited and terminate the discussion.

(b) If a prohibited oral ex parte presentation has been made, the Commission personnel to whom the presentation was made shall forward to the Managing Director a statement containing the following information:

(1) The name of the proceeding.

(2) The name and address of the person making the presentation and that person's relationship (if any) to the parties to the proceding or to their attorneys.

(3) The date and time of the presentation, its duration, and the circumstances (telephone, personal interview, casual meeting, etc.) under which it was made.

(4) A brief summary of the substance of the presentation.

(5) Whether the person making the presentation persisted in doing so after having been advised that the presentation was prohibited.

(6) The date and time at which the statement was prepared.

(c) Written ex parte presentations that are prohibited shall be forwarded by the person receiving them to the Managing Director. If the circumstances in which such a presentation was made are not apparent from the presentation itself, a statement describing those circumstances shall be submitted to the Managing Director with the presentation.

(d) Prohibited *written* ex parte presentations, all statements and correspondence relating thereto, all statements and correspondence relating to prohibited *oral* ex parte presentations shall be placed in a public file which shall be associated with, but not made a part of, the file or record of the proceeding to which the presentations pertain. In a proceeding which has not yet been designated hearing, no such presentations, statements or correspondence relating thereto, shall be considered in determining the merits of the proceeding except upon notice and disclosure to the parties to the proceeding. Once a proceeding has been designated for hearing, such materials may be considered in determining the

merits of a restricted proceeding only if they are made a part of the record of the proceeding.

(e) If the Managing Director determines that an ex parte presentation is prohibited by this subpart, he shall notify the parties to the proceeding that a prohibited ex parte presentation has occurred. If the Managing Director determines that the public interest so requires, he shall serve upon the parties to the proceeding copies of the presentation or, if it was oral, a summary of the presentation, as well as any statements or correspondence describing the circumstances in which it was made. Service by the Managing Director shall not be deemed to cure any violation of the rules against prohibited ex parte presentations.

(f) If circumstances satisfy the Managing Director that notice of a prohibited presentation under paragraph (e) of this section would be unduly burdensome because the parties to the proceeding are numerous, he may (in lieu of notice to the parties) issue a public notice that a prohibited presentation has been made in the proceeding. Where a determination has been made that disclosure of the prohibited presentation would be appropriate under paragraph (e) of this section and circumstances satisfy the Managing Director that service of copies of the prohibited presentation would be unduly burdensome because the parties to the proceeding are numerous or because the materials relating to the presentation are voluminous, he may issue a public notice that copies of the presentation and/or materials relating to it are available for public inspection.

(g) A copy of any statement describing the circumstances in which any prohibited ex parte presentation was made shall be forwarded to the person who made the presentation. Within 10 days thereafter, the person who made the presentation may file with the Managing Director a notarized statement regarding the presentation and the circumstances in which it was made. If the Managing Director deems it appropriate, he shall serve copies of the notarized statement upon parties to the proceeding.

§ 1.1214 Disclosure of information concerning violations of this subpart.

Any party to a proceeding or any Commission employee who has substantial reason to believe that any violation of this subpart has been solicited, attempted, or committed, shall promptly advise the Managing Director in writing of all the facts and circumstances concerning the matter which are known to him.

Sanctions

§ 1.1216 Sanctions.

(a) *Parties.* (1) Upon notice and hearing, any party to a restricted proceeding who directly or indirectly violates or causes the violation of any provision of this subpart, or who fails to advise the Managing Director of the facts and circumstances concerning any such violation, may be disqualified from further participation in that proceeding. Such alternative or additional sanctions as may be appropriate may be imposed.

(2) To the extent consistent with the interests of justice and the public, a party who has violated or caused the violation of any provision of this subpart may be required to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected.

(b) *Commission personnel.* For violations of the provisions of this subpart by Commission personnel refer to Administrative Order No. 10.

(c) *Other persons.* Such sanctions as may be appropriate under the circumstances shall be imposed upon other persons who violate the provisions of this subpart.

(d) The sanctions outlined in paragraphs (a)(1), (b), and (c) of this section shall also apply in non-restricted rulemaking proceedings, but the sanction outlined in paragraph (a)(2) of this section shall not apply in such proceedings.

[FR Doc. 87-12335 Filed 6-3-87; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-27; RM-5157; RM-5364]

Radio Broadcasting Services; Topsail Beach and Wilmington, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 280A for Channel 267A at Topsail Beach, as the community's first local FM service, in response to a petition for reconsideration filed jointly by Jeffrey D. Southmayd and Woolfson Broadcasting Corporation of Wilmington, Inc. Channel 280A can be allocated to Topsail Beach in compliance with the Commission's minimum distance separation requirements without a site restriction. The substitution of Channel 266C2 for Channel 265A at Wilmington, North Carolina, as requested by Woolfson Broadcasting Corporation of Wilmington, Inc. will be subject of a Further Notice of Proposed Rule Making to explore possible transmitter site problems.

EFFECTIVE DATE: July 13, 1987; The window period for filing applications will open on July 14, 1987, and close on August 12, 1987.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, MM Docket No. 86-27, adopted April 17, 1987, and released May 28, 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, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transportation Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), The Table of FM Allotments for Topsail Beach, North Carolina, is amended by removing Channel 267A and adding Channel 280A.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-12706 Filed 6-3-87; 8:45 am]
BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 542, 552 and 553

[APD 2800.12 CHGE 44]

General Services Administration Acquisition Regulation; Status Report of Orders and Shipments

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), Chapter 5, is amended to revise Section 542.1107 to provide for the use of the Status Report of Orders and Shipments clause in contracts for special order program items as well as

contracts for stock items; to revise Section 552.242–70 to incorporate the clause revised by Acquisition Circular AC–86–6 and to cancel the circular; to revise Section 553.270–3 to delete the instructions on modifying certain articles of GSA Form 3507, Supply Contract Clauses, and to illustrate the form in Section 553.370–3507. The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: May 26, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Ida M. Ustad, Office of GSA Acquisition Policy and Regulations on (202) 566–1224.

SUPPLEMENTARY INFORMATION:

Background

The General Services Administration published Acquisition Circular AC–86–6 in the **Federal Register** on July 16, 1986, 51 FR 25703, to temporarily amend the Status Report of Orders and Shipments clause. The rule was not published for public comment because it did not have a significant cost or administrative impact on contractors or offerors. Comments received from various offices within GSA have been reviewed, reconciled, and incorporated, when appropriate, in this final rule.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule permanently incorporates the substance of Acquisition Circular AC–86–6 into the regulation. The circular changed the reporting frequency under GSAR clause 552–242–70, Status Report of Orders and Shipments, from once a month to every two weeks and revised the instructions for use of the clause. The nature of the status report is such that information is inserted by the contractor on an ongoing basis as delivery orders are received and supplies shipped. Therefore, the change in frequency had no real impact on the reporting burden. Additionally, individual reports take less time to prepare because there is less information to compile. Consequently, a regulatory flexibility analysis was not prepared. The Status Report of Orders and Shipments (GSA Form 1678) has been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and assigned OMB Control Number 3090–0027.

List of Subjects in 48 CFR Parts 542, 552 and 553

Government procurement.

1. The authority citation for 48 CFR Parts 542, 552 and 553 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 542—CONTRACT ADMINISTRATION

2. Section 542.1107 is amended by revising paragraph (a) to read as follows:

§ 542.1107 Contract clauses.

(a) The contracting officer shall insert the clause at section 552.242–70, Status Report of Orders and Shipments, in solicitations and indefinite quantity and requirements contracts for stock or special order program items. The clause may also be used in idenfinite delivery definite quantity contracts for stock or special order program items when close monitoring is necessary because numerous shipments are involved.

* * * * *

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 552.242–70 is revised to read as follows:

§ 552.242–70 Status Report of Orders and Shipments.

As prescribed in section 542.1107(a), insert the following clause:

Status Report of Orders and Shipments (May 1987)

(a) On the first and fifteenth of each month during the contract period the Contractor shall furnish to the Administrative Contracting Officer (ACO) a report covering orders received and shipments made. The information required by the Government must be reported on GSA Form 1678, Status Report of Orders and Shipments, in accordance with instructions on the form.

(b) Submission of the information in an automated printout form as an attachment to the GSA Form 1678 is acceptable when authorized by the ACO. In that instance, blocks 1 through 5 of the GSA Form 1678 must be completed and attached as a cover page to the automated report.

(c) An initial supply of GSA Form 1678 will be forwarded to the Contractor with the contract. Additional copies of the form, if needed, may be obtained from the ACO, or the Contractor may reproduce the form.

(End of Clause)

PART 553—FORMS

4. Section 553.270–3 is amended by revising paragraph (e) to read as follows:

§ 553.270–3 Contract clauses.

* * * * *

(e) GSA Form 3507, Supply Contract Clauses, is for use in connection with sealed bid and negotiated contracts for supplies. However, because most of the clauses on the form also apply to contracts for the rental of personal property, the form may also be used for rental contracts.

* * * * *

§ 553.370–3507 [AMENDED]

5. Section 553.370–3507 is revised to illustrate the January 1987 edition of the GSA Form 3507, Supply Contract Clauses.

Editorial Note.—The revised GSA Form 3507, Supply Contract Clauses, is illustrated and made a part of the regulation. However, the form is not illustrated in the **Federal Register** or the Code of Federal Regulations. A copy of the form may be obtained from any GSA contracting activity or the Director of the Office of GSA Acquisition Policy and Regulations (VP), 18th and F Streets, NW, Washington, DC 20405.

Dated: May 26, 1987.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 87–12758 Filed 6–3–87; 8:45 am]

BILLING CODE 6820–61–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 701, 705, 709, 715, 719, 731, 736, and 752

[AIDAR Notice 87–8]

Miscellaneous Amendments to Acquisition Regulations

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The A.I.D. Acquisition Regulation (AIDAR) is being amended to reflect the renewal of OMB approval of information collection and recordkeeping requirements in the AIDAR; to revise various $5,000 thresholds to $25,000 to reflect the new small purchase ceiling; and to make miscellaneous editorial changes.

EFFECTIVE DATE: June 4, 1987.

FOR FURTHER INFORMATION CONTACT: M/SER/PPE, Mr. James M. Kelly, Room

1600I, SA–14, Agency for International Development, Washington, DC 20523. Telephone (703) 875–1534.

SUPPLEMENTARY INFORMATION: The changes being made by this Notice are not considered significant rules subject to FAR 1.301 or 1.5. This Notice is exempted from the requirements of Executive Order 12291 by OMB Circular 85–7. This Notice will not have an impact on a substantial number of small entities, nor will it require any information collection as contemplated by the Regulatory Flexibility Act and Paperwork Reduction Act, respectively.

List of Subjects in 48 CFR Parts 701, 705, 709, 715, 719, 731, 736, and 752.

Government procurement.

For the reasons set out in the Preamble, Chapter 7 of Title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citations in Parts 701, 705, 709, 715, 719, 731, 736, and 752 are unchanged, and continue to read as follows:

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

Subpart 701.1—Purpose, Authority, Issuance

2. Section 701.105 is revised as follows:

701.105 OMB Approval under the Paperwork Reduction Act.

The following information collection and recordkeeping requirements established by the AIDAR have been approved by OMB, and assigned OMB Control Number 0412–0520 (expiration date April 30, 1990):

709.104–3(c)
731.205–6(a)(2)
731.205–6(a)(3)
731.371(c)
731.772(c)
737.270(e)
752.209–70
752.219–8
752.228–70(b)
752.245–70
752.245–71
752.7001(a)
752.7001(b)
752.7002(a)
752.7002(b)
752.7003(b)
752.7004
752.7013(a)
752.7016
752.7020
752.7027(a)
752.7027(b)
752.7028
752.7031(b)

PART 705—PUBLICIZING CONTRACT ACTIONS

705.002 [Amended]

3. Section 705.002 is amended as follows:

(a) In the first sentence, remove the words "a Contractor's Index", inserting in their place "an A.I.D. Consultant Registry Information System (ACRIS)"; and

(b) In the second sentence, remove the words "Forms 1420–50A, Consulting Organization Registration Form; or 1420–50B, Individual Consultant Registration Form", inserting in their place "Form 1420–50, A.I.D. Consultant Registry Information System (ACRIS) Organization and Individual Profile".

PART 709—CONTRACTOR QUALIFICATIONS

Subpart 709.4—Debarment, Suspension and Ineligibility

4. Section 709.402 is revised as follows:

709.402 Policy

The policies and procedures governing the debarment, suspension, and ineligibility of "government procurement" contractors and suppliers are set forth in the Federal Acquisition Regulation, 48 CFR, Subpart 9.4. For debarment and suspension of these government procurement contractors and suppliers A.I.D. applies the procedures set forth in 22 CFR Part 208, which is also A.I.D.'s regulation for the debarment, suspension, and ineligibility of awardees of agreements other than government procurement contracts.

PART 715—CONTRACTING BY NEGOTIATION

Subpart 715.5—Unsolicited Proposals

715.504 [Amended]

5. Section 715.504 (a) is amended by removing the words "Room 647", in their place inserting "1400A".

715.506 [Amended]

6. Section 715.506 is amended by removing the words "Room 647", in their place inserting "1400A".

PART 719—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 719.2—Policies

719.270 [Amended]

7. Section 719.270(d) is amended by removing "$5,000", in its place inserting "$25,000".

719.271–2 [Amended]

8. Section 719.271–2 is amended as follows:

(a) In subparagraph (b)(4), remove the words "a Contractor's Index", in their place inserting "an A.I.D. Consultant Registry Information System (ACRIS)"; and

(b) In subparagraph (b)(8), remove "$5,000", in its place inserting "$25,000".

9. Section 719.271–6, Small business screening procedure, is amended as follows:

(a) In paragraph (a), remove "$5,000", in its place inserting "$25,000"; and

(b) Revise subparagraph (a)(3) as follows:

719.271–6 Small business screening procedure.

(a) * * *

(3) "Institution building" contracts (contracts for development of a counterpart capability in the host country) with educational or nonprofit institutions; or collaborative assistance contracts pursuant to AIDAR 715.613–71 and AIDAR Appendix F.

* * * * *

PART 731—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 731.2—Contracts With Commercial Organizations

731.205–6 [Amended]

10. Section 731.205–6(b)(2) is amended by removing the words "Acquisition Support Division", in their place inserting "Procurement Support Division".

Subpart 731.3—Contracts With Educational Organizations

731.371 [Amended]

11. Section 731.371(a) is amended by removing the words "Acquisition Support Division", in their place inserting "Procurement Support Division".

PART 736—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 736.6—Architect-Engineer Services

736.603 [Amended]

12. Section 736.603 is amended by removing the words "A Contractor's Index", in their place inserting "An A.I.D. Consultant Registry Information System (ACRIS)".

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 752.2—Texts of Provisions and Clauses

752.219-8 [Amended]

13. Section 752.219-8 is amended by removing both references to "PRE/SDB", replacing them with "OSDBU"; and by removing the words "five thousand dollars ($5,000)", in their place inserting "$25,000".

Dated: May 18, 1987.

John F. Owens,

Procurement Executive.

[FR Doc. 87-12545 Filed 6-3-87; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reclassification of the American Alligator to Threatened Due to Similarity of Appearance Throughout the Remainder of Its Range

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service reclassifies the American alligator (*Alligator mississippiensis*) throughout the remainder of its range, where the species was classified as endangered or threatened, to threatened due to similarity of appearance under provisions of the Endangered Species Act of 1973, as amended. The Service is amending the special rule on American alligators to reflect species-wide reclassification to threatened due to similarity of appearance. This rule is based on evidence that the species is no longer biologically endangered or threatened. Alligator populations in Texas, Louisiana, and Florida have already been reclassified. This rule deals with alligator populations in Alabama, Arkansas, Georgia, Mississippi, North Carolina, Oklahoma, and South Carolina. Alligator populations in these seven States are relatively stable and the alligator's distribution throughout these seven States is limited largely by habitat suitability. Reclassification would reduce restrictions on States for future management and research. Any proposed harvests would have to comply with the Service's special rule on American alligators and existing State statutes and regulations.

In July, 1975, the American alligator was listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). As a general rule, exports of animals and plants listed in Appendix II of CITES may occur only if a Scientific Authority (SA) has advised a permit-issuing Management Authority (MA) that such exports will not be detrimental to the survival of the species, and if the MA is satisfied that the animals or plants were not obtained in violation of laws for their protection. Since 1977, the rulemaking procedure has been employed on making findings of nondetriment for the export of American alligators from those States that have requrested and received program approval.

DATE: The effective date of this rule is July 6, 1987.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Endangered Species Field Office, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis B. Jordan at the above address (601/965-4900 or FTS 490-4900).

SUPPLEMENTARY INFORMATION:

Background

The American alligator (*Alligator mississippiensis*) is a large reptile that inhabits wetland areas in all or parts of the following States: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas. The alligator is a member of the Crocodilia, a group of reptiles that has remained relatively unchanged since it evolved some 180-200 million years ago (Murphy 1982). It is one of ony two extant species (Chinese alligator and American alligator) of the genus *Alligator*, and it has significant scientific and commercial value. The American alligator's historic and present range are similar (Murphy 1982), although current populations are probably more disjunct due to habitat modification.

Management of alligators has improved markedly in recent years through the activities of Federal agencies, States, and private groups. Major contributions to the species recovery have been made by the Florida Game and Fresh Water Fish Commission, the Louisiana Department of Wildlife and Fisheries, the North Carolina Wildlife Resource Commission, the South Carolina Department of Wildlife and Marine Resources, and the Texas Department of Parks and Wildlife. Many State and private institutions and organizations have also made significant contributions. Because of these activities, the American alligator is no longer biologically endangered or threatened.

The alligator was first classified as endangered throughout its range in 1967 due to concern over poorly regulated or unregulated harvests. Subsequently, the alligator recovered rapidly in many parts of its range due to response to Federal and State protection, enabling the Service to undertake the following reclassification actions: (1) Reclassification to threatened due to similarity of appearance in three coastal parishes of Louisiana, reflecting complete recovery (September 26, 1975—40 FR 44412); (2) reclassification to threatened, reflecting partial recovery in all of Florida and certain coastal areas of South Carolina, Georgia, Louisiana, and Texas (January 10, 1977—42 FR 2071); (3) reclassification to threatened due to similarity of appearance, reflecting complete recovery in nine additional parishes of Louisiana (June 25, 1979—44 FR 37130); (4) reclassification to threatened due to similarity of appearance in 52 parishes in Louisiana, reflecting complete recovery (August 10, 1981—46 FR 40664); (5) reclassification to threatened due to similarity of appearance in Texas, reflecting complete recovery (October 12, 1983—48 FR 46332); (6) reclassification to threatened due to similarity of appearance in Florida, reflecting complete recovery (June 20, 1985—50 FR 25672).

Presently the species is classified as threatened due to similarity of appearance in Florida, Louisiana, and Texas. These three States contain the majority of American alligator habitat; approximately 12,000,000 acres (4,858,299 hectares) or 83 percent of the total for the species. Alligators are classified as threatened or endangered in Georgia and South Carolina, and endangered in Alabama, Arkansas, Mississippi, North Carolina, and Oklahoma.

The Service was petitioned by the State of South Carolina on July 27, 1984, to reclassify the American alligator in South Carolina, to a category of threatened due to similarity of appearance. Data submitted in support of the petition indicate that alligator populations in South Carolina are disjunct, but stable. Studies in Georgia (Ruckel 1984a, 1984b, and 1984c), North Carolina (Doerr 1983), Mississippi (Lewis 1984), and Alabama (Chabreck 1980, 1984) indicate similar population characteristics to those in South Carolina; populations are stable, disjunct, and limited to areas with suitable habitat. Comprehensive data are not available for Arkansas and Oklahoma, although population characteristics should be similar to peripheral populations in other States. These data, in addition to findings in Florida (46 FR 40664), Texas (42 FR 2071), and parts of Louisiana (44 FR 37130), indicate that the alligator is neither endangered nor likely to become endangered within the foreseeable future. Therefore, the Service is reclassifying populations currently listed as endangered or threatened, into the category of threatened due to similarity of appearance. This action results in a rangewide designation of the American alligator as threatened due to similarity of appearance. Specifically, the change affects the alligator's status in Alabama, Arkansas, Georgia, Mississippi, North Carolina, Oklahoma, and South Carolina, States which contain approximately 17 percent of the species' total habitat. This action formally recognizes that the American alligator is no longer biologically threatened or endangered, but supports a need for continued Federal controls on taking and commerce to insure against excessive taking and to continue necessary protections to the American crocodile (*Crocodylus acutus*) in the U.S. and foreign countries, and other endangered crocodilians in foreign countries.

Summary of Comments and Recommendations

In the June 2, 1986, proposed rule (50 FR 19760) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, County governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published on June 15, 1986, in the *News and Courier*, Charleston, South Carolina; in the *Atlanta Constitution*, Atlanta, Georgia on June 15, 1986; in the *News and Observer*, Raleigh, North Carolina on June 18, 1986; in the *Clarion-Ledger*, Jackson, Mississippi on June 20, 1986; in the *Mobile Press Register*, Mobile, Alabama on June 30, 1986; in the *Daily Oklahoman*, Oklahoma City, Oklahoma on June 22, 1986; and in the *Arkansas Gazette*, Little Rock, Arkansas on June 15, 1986. Ten comments were received from ten parties. A public hearing was not requested, and none was held.

Seven comments were received in support of the proposal from the States of Arkansas, North Carolina, Georgia, Louisiana, and Oklahoma; one Federal agency; and one wildlife organization. Two wildlife organizations and one individual disagreed with parts of the proposal. The Service has combined non-concurring comments into common issues where possible and responded to those which have a bearing on the reclassification proposal.

Issue 1: Section 7 is the key to ensuring alligator habitat preservation in areas where such habitat is not widespread. Response—Section 7 has not been a significant tool in protecting alligator habitats because few projects authorized, funded, or carried out by Federal agencies have jeopardized the alligator's continued existence. The Service recognizes that certain development plans may have been altered specifically to avoid a jeopardy situation, and that these alternative plans may have, in part, protected certain amounts of alligator habitat. However, the Service believes that provisions in section 7 of the Act have not contributed significantly to the improved status of the American alligator, but rather, that the improved status of this species is almost entirely due to strict control of take (see "Background" section).

Issue 2: Until the Service can provide additional data that conclusively demonstrates a stable or increasing population in Arkansas, North Carolina, and Oklahoma, there should be no change is status. Response—The American alligator is on the periphery of its range in Arkansas, North Carolina, and Oklahoma, and populations in these states represent less than one percent of the species' total range (based on amount of occupied habitat). Because these areas represent a small fraction of the alligator's total range, and because populations of most species fluctuate naturally along the periphery of their range (e.g., peripheral populations fluctuate because they are often at their environmental limits, and even slight environmental changes, including natural ones, can result in population changes), the Service believe that populations in Arkansas, North Carolina, and Oklahoma have little bearing on the status of the species as a whole. The Service has based this rule on the best available data, as required by the Endangered Species Act. These data, as a whole, indicate the alligator is neither in danger of extinction, nor likely to become so in the foreseeable future. Therefore, the Service has determined that it is now prudent to treat all alligators similarly wherever they occur.

Issue 3: The desire to expand commercial hunting of alligators is one reason why the Service proposed the reclassification. The commenter further contends that the purpose of having a wildlife species recover from endangered status is to save the species for biological and ecological reasons, but not be provide hunters, or other commercial interests with further opportunities to kill wildlife. Response—The Service is undertaking the reclassification based solely upon the evidence cited in this rule. Any commercial hunting of alligators will be approved and regulated by each individual State in its management of this species in compliance with the Service's special rule on alligators.

The export of alligator hides, meat, and parts is regulated under Article IV of CITES which requires that an export permit for any specimen included in Appendix II shall only be granted when certain findings have been made by the SA and MA of the exporting country.

Issue 4: Most references cited by the Service in its proposed rule are unpublished manuscripts and are not readily available for critical examination by the scientific community; thus, the quality and validity of these data cannot be evaluated easily or at all. Reponse—It is true that many of the data available on alligators are unpublished. However, those materials which have a bearing on this proposal are on file at the Service's Jackson, Mississippi Endangered Species Field Station and are available for inspection.

Issue 5: The most prudent action the Service can adopt in this matter is to move more slowly toward reclassification of the status of the alligator in the geographic areas covered by this proposed rule. Response—The Service has moved very slowly with partial reclassification actions (by area) beginning on September 26, 1975—50 FR 19760, a period of almost 11 years. The Service believes that it is no longer necessary to treat various alligator populations differently and that

additional time in making this rule will be of no value to the species.

Issue 6: The Service should add a paragraph to the American alligator special rule (50 CFR 17.42(a)(2)(i)(A)(4)) that would require reporting, to the Director of the Fish and Wildlife Service, any taking of an American alligator that constitutes a demonstrable but non-immediate threat to human safety. Response—The Service believes that State programs are and will continue to be effective in controlling take of American alligators, and that their recording systems are sufficient to track the taking of problem alligators. Therefore, the Service believes that State programs are sufficient to minimize indiscriminate removal of alligators.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the American alligator should be reclassified to a category of threatened by similarity of appearance. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) were followed. A species may be delisted or reclassified due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the American alligator (*Alligator mississippiensis)* in Arkansas, Alabama, Georgia, Mississippi, North Carolina, South Carolina, and Oklahoma are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Albemarle Sound in North Carolina is the approximate northern limit for alligators (Doerr 1983). From this point and south through the State of South Carolina, the principal habitat for the species is coastal marsh, with greatest densities in fresh marsh, brackish marsh, and natural and artificial impoundments. Of occupied habitats in Georgia, about 60 percent are coastal and inland marshes, with the remaining 40 percent in perennial swamps and reservoirs. Alligator habitat in Alabama and Mississippi is similar to that in Georgia, with large populations in marsh and swampland areas along the coast and disjunct populations located inland. Arkansas has a few peripheral populations in the south central part of the State associated with lakes and streams. Oklahoma has a few individuals located on the periphery of the Little River drainage in the southeastern part of the State.

Wetlands throughout the alligator's range have been reduced. Productive marsh habitats have and continue to be lost due to a variety of causes, and residential development on and near wetlands increases the probability of conflict between humans and alligators. However, the Service believes that habitat losses are insignificant when compared to the total amount of alligator habitat. Overall, the alligator occupies some 14 million acres (5,668,016 hectares) of various wetland types. Previously cited references involving reclassification of the alligator indicate that habitat in Louisiana, Texas, and Florida will remain abundant in the foreseeable future. Furthermore, Federal and State agencies manage and protect large amounts of alligator habitat.

State agencies have applied different combinations of planning strategies which have improved the biological status of the alligator throughout a majority of suitable habitat in the Southeast. Some of these strategies have included (1) greater penalties for illegal harvest, (2) assigning personnel to handle nuisance complaints and to relocate problem alligators, (3) prohibiting harvest on State lands, (4) restricting and controlling harvest on State lands based on survey and population data, (5) purchasing and/or protecting wetland habitats, (6) educating private land owners on the economic and social benefits of maintaining and enhancing alligators and their habitats, and (7) continual monitoring and research of alligator populations.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Overharvest due to commercial demand for alligator products was responsible for population declines in accessible habitats during the 1950's and 1960's. This problem was reversed primarily through a more effective protective mechanism brought about by the Lacey Act Amendment of 1969 which prohibited interstate commerce in illegally taken reptiles and their parts and products. This law provided Federal authority for dealing effectively with illegal activities in the market system. The Endangered Species Act of 1973 added heavy penalties which further enhanced the control of illegal taking. Additionally, vigorous enforcement by State and Federal authorities has been effective in controlling the illegal taking of alligators. Because of these actions, the number of alligators generally increased during the late 1970's and 1980's (Table 1).

TABLE 1.—RESULTS OF SOUTHEASTERN COOPERATIVE ALLIGATOR SURVEY FOR ALABAMA, ARKANSAS, GEORGIA, MISSISSIPPI, AND SOUTH CAROLINA. DATA FROM CHABRECK (1984).

Year	Total alligators observed	Average number alligators seen/mile
1972	2584	3.95
1973	1492	3.89
1974	875	2.25
1975	1308	3.46
1976	1164	2.37
1977	1130	4.29
1978	1275	4.64
1979	2356	8.75
1980	2582	4.30
1981	3361	8.63
1982	3797	9.54

A comparison between 1972–1976 and 1977–82 of the average number of alligators observed per mile indicates a 110 percent increase (3.18 vs. 6.69, respectively).

Variation in results presented in Table 1 (e.g., drop in the average number of alligators seen/mile during one year after a steady increase) probably reflects behavioral responses of alligators (e.g., reduced activity) to environmental conditions rather than decreases in the number of alligators at a given site (see Woodward and Marion 1978, for factors affecting night counts).

The number of large (in excess of six feet) alligators also increased dramatically after 1977 (Table 2).

TABLE 2—A COMPARISON OF LARGE ALLIGATORS/MILE BEFORE 1977 AND 1977–82. DATA FROM CHABRECK (1984).

State	1972–1977	1977–1982	Percent change
AL	.21	2.25	+1000
AR	.38	.39	+3
GA	.84	1.58	+88
MS	.29	.24	−24
SC	.12	1.96	+1633

In addition to night surveys associated with the Southeastern Cooperative Alligator Survey, many additional night surveys have been conducted in North Carolina, South Carolina, and Georgia. Some nest surveys have also been done in South Carolina and Georgia. All of this work indicates stable or increasing alligator populations in these States. For example, Murphy and Coker (1983 a and b) showed an overall increasing trend in South Carolina alligator populations from 1976 through 1983. Furthermore, data show healthy rates of nesting, hatchling survival,

and recruitment in South Carolina (Murphy and Wilkinson 1982), North Carolina (Doerr 1983), Georgia (Ruckel 1981a and 1981b), and Alabama (Chabreck 1980).

Since alligators will continue to be classified as threatened due to similarity of appearance, future taking for whatever purpose will continue to be regulated by controls established in the Endangered Species Act. Further, the commercial harvest and taking of alligators is regulated by the Service's special rule on American alligators (50 CFR 17.42(a)), and the export of alligators and their hides, meat, and parts is regulated under the provisions of CITES.

Based on the combined experiences in sustained yield and nuisance control harvests in Louisiana, Florida, and Texas, methods are now available to design harvests so that alligator populations are not negatively affected (Taylor and Neal 1984).

C. *Disease or predation.* Like most wildlife, alligators are susceptible to various types of disease and predation, but these factors do not appear to threaten the species.

D. *The inadequacy of existing regulatory mechanisms.* Existing regulations governing take and commerce have successfully dealt with the original basis for listing the American alligator as endangered. The same framework of controls which now governs take and commerce in Florida, Louisiana, and Texas will operate in the remainder of the species' range. The following laws and regulations deal specifically with taking, commerce, and export: (1) The 1969 Amendment to the Lacey Act, which extended enforcement authority to interstate movement of reptiles and their parts; (2) the Endangered Species Act of 1973, which authorizes the special rules for alligators classified as threatened due to similarity of appearance, governs taking and commerce in alligators; (3) the annual export findings of the Scientific and Management Authorities of the Service, which govern export of species, including the American alligator, which is listed in Appendix II of CITES.

States may not authorize take of alligators or the commercial use of alligator parts except in accordance with conditions set forth in the special rule on American alligators (50 CFR 17.42(a)). Further, the annual findings of the Scientific and Management Authorities under CITES for export of Appendix II species are conditioned by a determination on a State's management and regulatory framework with regard to management and conservation of such species.

Guidelines developed for SA advice on exports of alligators under the provisions of CITES Article II.2(a) have been revised to conform with the 1982 Amendments to the Endangered Species Act (see 48 FR 16494; April 1983).

Although this reclassification removes the American alligator from an endangered or threatened status, federally enforced laws and regulations remain in place. These require that any harvest options by States meet certain minimum conditions to insure against a recurrence of the original problem which prompted listing, i.e., excessive take.

E. *Other natural or manmade factors affecting its continued existence.* Although factors such as nest flooding or drought may affect alligators, none of these natural factors are known to limit populations on a large scale and they are not expected to pose a threat to the species in the future.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in making this rule final. Based on this evaluation, the preferred action is to reclassify the American alligator in the remainder of its range to threatened due to similarity of appearance. Criteria for reclassification of a threatened or endangered species are found at 50 CFR 424.11(d). They include extinction, recovery of the species, and original data for classification in error. This proposal is based upon evidence that the species is not biologically threatened.

Similarity of Appearance

Section 4(e) of the Endangered Species Act authorizes the treatment of a species as an endangered or threatened species even though it is not otherwise listed as endangered or threatened, if it is found: (a) That the species so closely resembles in appearance an endangered or threatened species that enforcement personnel would have substantial difficulty in differentiating between listed and unlisted species; (b) that the effect of this substantial difficulty is an additional threat to the endangered or threatened species; and (c) that such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of the Act.

The American alligator is listed in Appendix II of CITES to respond both to problems of potential threat to the survival of American alligators [CITES Article II.2(a)] and similarity in appearance to other crocodilians that are threatened with possible extinction [CITES Article II.2(b)].

Although biologists can readily distinguish live alligators from other crocodilians that are listed under the Act, enforcement personnel could have considerable difficulty in making correct species identification, which could hamper enforcement efforts. In addition, small parts and products of processed crocodilian leather are nearly impossible to distinguish when made into goods, thus hampering the identification of legal alligator products from those of endangered or threatened crocodilians. Problems with identification could increase illegal trade in endangered crocodilian products, further jeopardizing these species.

By listing the American alligator under the similarity of appearance provisions of the Act, coupled with the special rules for American alligators as specified in § 17.42, the Service believes that enforcement problems can be minimized, while at the same time, the conservation of listed populations of crocodilians can be ensured. The similarity of appearance provisions of the Act have proven effective in Florida, Louisiana, and Texas.

Critical Habitat

Critical habitat for the American alligator was not designated at the time of listing and has not been since designated. Therefore, this final rule will have no effect on critical habitat for this species.

Effects of Rule

This rule changes the status of the alligator throughout the remainder of its range from its current status of endangered or threatened to a status of threatened due to similarity of appearance. It is a formal recognition by the Service that the American alligator is biologically secure throughout its range. A final rule results in removal of Federal agency responsibilities under section 7 of the Endangered Species Act. No significant adverse effects on the status of the species are expected to occur from this removal.

This final rule makes available to States the option of expanding harvests of alligators to additional areas. If a State elects to expand its harvests, these harvests could be expected to increase at a level commensurate with development and implementation of the State research and management program. All taking and commerce in alligators and their parts and products would be regulated by the Service's special rule on American alligators (50 CFR 17.42(a)), as well as other applicable controls such as the Lacey Act (18 U.S.C. 42), which prohibits interstate commerce in illegally taken wildlife or their products, and CITES which regulates the export of alligators and their hides, meat, and parts.

Increased harvest of alligators is expected to result in an increased volume of alligator exports, although the magnitude of this increase cannot be predicted at this time. The Service has previously expressed its concern about the effects of increased exports on other endangered crocodilians found in international trade. International trade in alligator products is presently subject to the restrictions of CITES, the Service's implementing regulations (50 CFR Part 23) and general wildlife exportation requirements (50 CFR Part 14). Previous determinations by the Service's Scientific and Management Authorities have concluded that export of alligators taken in Louisiana, Florida,

and Texas would not be detrimental to the survival of the alligator or other endangered crocodilians. The Service will continue to review any possible impact and take appropriate action if evidence indicates that restrictions are warranted. This action is not an irreversible commitment on the part of the Service. The action is reversible and relisting is possible if the status of the species changes or if States materially change their plans or actions in a way that may threaten the species. The Service will continue to monitor and review the States' management programs.

Should the final rule to reclassify the American alligator throughout the remainder of its range to threatened due to similarity of appearance be approved, the additional States will find that the change in Federal laws controlling this species has made their alligators eligible for harvest and commerce. A State seeking to begin a harvest program for export purposes under CITES should provide biological and management information as des ribed in the September 2, 1986, **Federal Register** (51 FR 31130) to enable the Service to consider issuing SA and MA findings.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References

The following documents were used in the preparation of this rule. These and other documents supplying background information, including all unpublished data, are on file at the Service's Jackson Endangered Species Field Station (see **"ADDRESSES"** section):

Chabreck, R.H. 1980. Status of the American alligator in Baldwin and Mobile Counties, Alabama. Unpublished manuscript, Louisiana State University, Baton Rouge, 72 pp.

Chabreck, R.H. 1984. Cooperative Surveys of the American Alligator in the Southeastern United States, 1974–1982. Unpublished data, Louisiana State University, Baton Rouge.

Doerr, P. 1983. Status of the American Alligator in North Carolina. North Carolina State University, Raleigh, Project E–1, Study I. May 1978–Oct. 1983. 494 pp.

Lewis, D. 1984. Night count summaries and alligator habitat for Mississippi. Unpublished Data, Mississippi Dept. of Wildlife Conservation, Jackson.

Murphy, T.M. 1982. Size at Sexual Maturity of Male Alligators in South Carolina. South Carolina Wildlife and Marine Resources Department, Unpublished manuscript, 21 pp.

Murphy, T.M., and J.W. Coker. 1983a. Night Spotlight Counts of Alligators in South Carolina. South Carolina Wildlife and Marine Resources Department, Unpublished manuscript, 35 pp.

Murphy, T.M., and J.W. Coker. 1983b. American Alligator Population Studies In South Carolina. South Carolina Wildlife and Marine Resources Department Study Completion Reports. Unpublished manuscript, 115 pp.

Murphy, T.M., and P.M. Wilkinson. 1982. American Alligator Investigation Management Recommendations and Current Research. South Carolina Wildlife and Marine Resources Dept. Unpublished manuscript, 90 pp.

Ruckel, S. 1981a. Productivity of Alligators in Georgia. Final Report. Georgia Game and Fish Division, Project E–1, Study 17, 18 pp.

Ruckel, S. 1981b. Distribution of Alligators in Georgia. Final Report. Georgia Game and Fish Division, Project E–1, Study 17, 6 pp.

Ruckel, S. 1984a. Georgia alligator spotlight survey results, 1973–1984. Unpublished data, Georgia Game and Fish Division, Atlanta.

Ruckel, S. 1984b. Estimated wetland acreage occupied by alligators in Georgia. Unpublished data, Georgia Game and Fish Division, Atlanta.

Ruckel, S. 1984c. Characteristics of nuisance alligator complaints and nuisance alligators captured and relocated in Georgia, 1980–83. Unpublished manuscript, Georgia Game and Fish Division, Atlanta.

Taylor, D., and W. Neal. 1984. Management implications of size-class frequency distributions in Louisiana alligators. Wildl. Soc. Bull. 12:312–319.

Woodward, A.R., and W.B. Marion. 1978. An evaluation of factors affecting nightlight counts of alligators. Proc. Ann. Conf. S.E. Assoc. Fish and Wildlife Agencies 32:291–302.

Author

The primary author of this final rule is Mr. Wendell Neal of the Service's Jackson Endangered Species Field Station (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. (97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by replacing all entries of the American alligator under "Reptiles" in the List of Endangered and Threatened Wildlife with the following entry:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
REPTILES							
Alligator, American	*Alligator mississippiensis*	Southeastern U.S.A.	Entire	T(S/A)	1, 11, 20, 47, 51, 60, 113, 134, 186, 269.	NA	17.42(a)

3. Revise § 17.42(a) to read as follows:

§ 17.42 Special rules-reptiles.

(a) American alligator (*Alligator mississippiensis*)—(1) *Definitions.* For purpose of this paragraph (a): "American alligator" shall mean any member of the species *Alligator mississippiensis*, whether alive or dead, and any part, product, egg, or offspring thereof found in captivity or the wild.

(2) *Taking.* No person may take any American alligator, except:

(i) Any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take an American alligator.

(ii) Any person may take an American alligator in the wild, or one which was born in captivity or lawfully placed in captivity, and may deliver, receive,

carry, transport, ship, sell, offer to sell, purchase, or offer to purchase such alligator in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity in accordance with the laws and regulations of the State of taking subject to the following conditions:

(A) Any hide of such alligator may be sold or otherwise transferred only in compliance with paragraph (a)(2)(ii)(C) of this section;

(B) Any hide, meat or other part may be sold or otherwise transferred only in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(C) The State of taking requires hides to be tagged by State officials, or under State supervision, with a Service approved tag, a sample of which must be on file in the Federal Wildlife Permit Office (FWPO), that:

(*1*) Is made of permanent material,

(*2*) Shows State of origin, year of take, species, and is serially unique, and

(*3*) Cannot be opened and reused once attached to the hide.

(iii) Import/Export. Any person may import or export hides, manufactured products, meat or other parts in accordance with Part 23 of this chapter.

(iv) Recordkeeping

(A) Any person not holding an import/export license issued by the Service under § 14.91 and who imports, exports, or obtains permits under Part 23 for the import or export of American alligator shall keep such records as are otherwise required to be maintained by all import/export licensees under § 14.93(d). Such records shall be maintained as in the normal course of business, reproducible in the English language, and retained available for Service inspection for 5 years from the date of each transaction.

(B) Subject to applicable limitations of law, duly authorized Service officers at all reasonable time shall, upon notice, be afforded access to examine such records required to be kept under paragraph (a)(2)(iv)(A)(1) of this section, and an opportunity to copy such records.

* * * * *

Dated: May 29, 1987.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-12806 Filed 6-3-87; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 52, No. 107
Thursday, June 4, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

[Docket No. AO-371-A1]

Papayas Grown in Hawaii; Secretary's Decision on Proposed Amendment of the Marketing Agreement and Order 928

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This decision recommends amendment of the Marketing Agreement and Marketing Order No. 928, covering papayas grown in Hawaii, and directs that a referendum be conducted to determine if Hawaiian papaya producers favor the various amendent proposals. The amendment proposals would: (1) Authorize a public member on the committee and changes in the size and composition of the committee, and limit committee member tenure to 3 consecutive 2-year terms of office; (2) provide an additional method of nominating persons to fill committee vacancies; (3) require an affirmative vote by a majority of the committee members to take any action; (4) authorize a late payment charge on past due assessments; (5) authorize container marking regulations, and container identification of inspected papayas; (6) provide for different grade, size, container, container marking, and pack regulations for papayas shipped to different geographical areas and market types; (7) provide for periodic continuance referenda every 6 years; and (8) make conforming changes. The amendments are designed to improve the effectiveness of the marketing order program.

DATE: The voting period for purposes of the referrndum herein ordered is June 22–30, 1987.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250, telephone 202–447–5697.

SUPPLEMENTARY INFORMATION: Prior Documents in this Proceeding: The Notice of Hearing was issued November 8, 1985, and published in the **Federal Register** (50 FR 46773, November 13, 1985). The Recommended Decision was issued February 5, 1987, and published in the **Federal Register** (52 FR 4462, February 11, 1987).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and therefore is excluded from the requirements of Executive Order 12291 and Departmental Regulations 1512–1.

Preliminary Statement

The proposed amendment was formulated on the record of a public hearing held at Hilo, Hawaii, on November 20–21, 1985, to consider the proposed amendment on the Marketing Agreement and Marketing Order No. 928 regulating the handling of papayas grown in Hawaii, hereinafter referred to collectively as the "order." The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the "Act," and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900). The Notice of Hearing contained several amendment proposals submitted by the Papaya Administrative Committtee established under the order, hereinafter referred to as the "committee." The Department of Agriculture proposed that it be authorized to make any necessary conforming changes.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator, on February 5, 1987, filed with the Hearing Clerk, U.S. Department of Agriculture, the Recommended Decision containing the notice of the opportunity to file written exceptions thereto by March 13, 1987. No exceptions were filed.

The Administrator of the Agricultural Marketing Service has determined that this action would not have a significant economic impact on a substantial number of small entities as defied by the Regulatory Flexibilit Act (RFA) 5 U.S.C. 601 *et seq.*). As stated in the Notice of Hearing, Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact of the amendment proposals on small businesses for purposes of the RFA. In that regard, such evidence was considered in arriving at the findings and conclusions contained in the Recommended Decision and incorporated herein.

Approximately 100 handlers regulated under Marketing Order 928 handled papayas for fresh market with an estimated crop value of $8.4 million, during the fiscal year which ended December 31, 1985. There are approximately 300 papaya producers in Hawaii. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,00, and agricultural services firms are defied as those whose gross annual receipts are less than $3,500,000. The majority of Hawaiian papaya handlers and producers may be classified as small entities.

The amendment contains provisions pertaining to the structure and functioning of the committee and operations of the order which would: (1) Authorize a public member on the committee to provide public input; (2) authorize changes in the size and composition of the committee to maintain equitable grower and handler representation on the committee; (3) limit committee member tenure to 6 years to broaden the base of participation in order decisions; (4) provide an additional method of nomination to facilitate filling committee vacancies; (5) require an affirmative vote by a majority of the committee members to take any action to accommodate charges in committee size, and (6) provide for periodic continuance referenda to allow producers an opportunity to evaluate and express support or disapproval of the order. Such amendments are designed to enhance the administration and functioning of the marketing order, and would have negligible, if any, economic impact on small businesses.

The amendment also contains a provison pertaining to assessments levied under the order paid by papaya handlers, authorizing a late payment charge on overdue assessments. This

provision, if implemented by informal rulemaking, would only be applicable to those papaya handlers who fail to pay their assessments on time. The provision is designed to improve the financial operations of the order by encouraging handlers to pay these assessments in a timely manner. The amendment would not affect a substantial number of small entities since most of the handlers traditionally make timely assessment payments. The extra cost to delinquent handlers would not be a significant economic impact on their total operations and could be entirely avoided by making timely assessment payments.

One of the amendment provisions would add authority to the order providing for the issuance of container marking regulations and container identification of inspected papayas. While the major handlers currently mark their containers, such markings are not uniform throughout the industry, and a few handlers either incorrectly mark or do not mark their containers. Including container marking authority in the order would permit the issuance of mandatory standardized container marking requirements. Markings on containers provide information used by the committee, handlers, and the trade to identify the contents in the container. Mandatory marking requirements would primarily impact handlers who practice mismarking or do not mark containers, and such handlers would incur the additional minimal costs associated with container marking. On the other hand, papaya handlers who currently mark their containers would only be impacted negligibly as they would only need meet the standardized marking requirements. Any requirements would be designed to provide the papaya industry and trade information necessary for efficient marketing of the papaya crop.

The remaining amendment provision would authorize the issuance of different grade, size, container, container marking, and pack regulations for papayas shipped to different geographical areas and market types identified by the committee and approved by the Secretary. The order now authorizes that regulations for shipments within Hawaii may differ from those shipped outside the State. The proposed provision would enable the committee to recommend and the Secretary to issue different regulations for different markets depending on the charactristics of those markets. As all fresh papaya shipments are now regulated under the order, the issuance of separate regulations would not measurably increase the regulatory burden on handlers. Any such different regulations issued would be designed to improve returns to papaya producers, by tailoring the regulations to the demands of specific markets. Thus, any possible slight economic impact on handlers should be offset by increased sales opportunities.

Finally, the amendments to the order would have no significant impact on small businesses' recordkeeping and reporting burdens.

Findings and Conclusions

The material issues, findings and conclusions, rulings, general findings, and regulatory provisions of the Recommended Decision published in the **Federal Register** (52 FR 4462, February 11, 1987) are, subject to the change specified in the following paragraph, incorporated herein and made a part hereof.

The order's fiscal year was changed in a prior rulemaking (51 FR 35342, October 2, 1986) to the period from July 1 through June 30. A corresponding change was made in the implementing regulations regarding the term of office for committee members and alternates (52 FR 15489, April 29, 1987). Therefore, a conforming change to § 928.21 of the order is necessary and is accomplished in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Papayas Grown in Hawaii," and "Order Amending the Order, as Amended, Regulating the Handling of Papayas Grown in Hawaii." These documents have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*), to determine whether the issuance of the annexed order amending the order regulating the handling of papayas grown in Hawaii is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production area in the production of the regulated commodity for market. The representative period for the conduct of such referendum is hereby determined to be January 1, 1986, through December 31, 1986.

The agents of the Secretary to conduct such referendum are hereby designated to be David B. Fitz and Anne M. Dec, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, 5150 N. 6th Street, Suite 160, Fresno, California 93710.

List of Subjects in 7 CFR Part 928

Marketing agreements and orders, Papayas, Hawaii.

Signed at Washington, DC, on: May 29, 1987.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

Order Amending the Order Regulating the Handling of Papayas Grown in Hawaii [1]

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the Marketing Agreement and Marketing Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii.

Upon the basis of the record, it is found that:

(1) The order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The order, as hereby amended, regulates the handling of papayas grown in the production area in the same manner as, and is applicable only to

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as hereby amended, is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) There are no differences in the production and marketing of papayas grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of papayas grown in the production area is in the current of interstate or foreign commerce or directly burden, obstructs, or affects such commerce.

Order Relative To Handling

It is therefore ordered, That on and after the effective date hereof the handling of papayas grown in Hawaii shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the Recommended Decision issued by the Administrator on February 5, 1987, and published in the **Federal Register** (52 FR 4468, February 11, 1987), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 928—PAPAYAS GROWN IN HAWAII

1. The authority citation for 7 CFR Part 928 continues to read as follows:

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

2. Revise § 928.11 to read as follows:

§ 928.11 District.

"District" means the applicable one of the following described subdivisions of the production area, or such other subdivisions as may be prescribed pursuant to § 928.31(o):

(a) District 1 shall include the island of Hawaii.

(b) District 2 shall include the county of Kauai which consists of the islands of Kauia and Niihau; the county of Maui which consists of the islands of Maui, Molakai, Lanai, and Kahoolawe; and Kalawao County

(c) District 3 shall include the county of Honolulu which includes all of the island Oahu.

3. Revise § 928.20 to read as follows:

§ 928.20 Establishment and membership.

There is hereby established a Papaya Administrative Committee consisting of 13 members, each of whom shall have an alternate who shall have the same qualifications as the member. Ten of the members and their alternates shall be growers and are referred to as "grower" members of the committee. Seven of the grower members and their alternates shall be producers of papayas in District 1, two grower members and their alternates shall be producers of papayas in District 2, and one grower member and alternate shall be producers of papayas in District 3. No grower organization shall be permitted to have more than 3 members on the committee. Three of the members and their alternates shall be representatives of handlers and are referred to as "handler" members of the committee. The 3 handler members and their alternates shall be selected from the production area at large. No handler organization shall be permitted to have more than one handler member on the committee. The number of grower and handler members and alternates on the committee, and the composition of the committee between growers and handlers may be changed as provided in § 928.31(o). The committee also may be increased by one public member and one alternate public member nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe the qualifications of, and the nominating procedure for, the public member and alternate.

4. Revise § 928.21 to read as follows:

§928.21 Term of office.

The term of office of each member and alternate member of the committee shall be for 2 years beginning July 1 and ending on the second succeeding June 30, or such other dates recommended by the committee and established by the Secretary. The consecutive terms of office of a member shall be limited to three 2-year terms. Members and alternate members shall serve in such capacity for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

5. Amend § 928.22 by removing paragraph (a), by redesignating current paragraph (b) as (a), by revising the first sentence of new paragraph (a), and by adding a new paragraph (b) to read as follows:

§ 928.22 Nomination.

(a) *Successor Members.* (1) The Committee shall hold or cause to be held, not later than 45 days before the beginning of the term of office of committee members, separate meetings of growers in each district and a meeting of handlers for the purpose of designating nominees for successor members and alternate members of the committee, which shall be publicized and open to all growers and handlers.* * *

(b) In the event that nominees for all available positions are not provided by the aforesaid procedure, then such unfilled positions shall be treated as vacancies and the provisions of § 928.26 shall apply.

6. Revise § 928.23 to read as follows:

§ 928.23 Selection.

The Secretary shall select the grower, handler, and public members, and an alternate for each, from nominations made under §§ 928.20, 928.22 and 928.26, or from other qualified persons.

7. Revise § 928.24 to read as follows:

§ 928.24 Failure to nominate.

If nominations are not made in the time and manner prescribed in §§ 928.20, 928.22 and 928.26, the Secretary may without regard to nominations select the members and alternate members of the committee.

8. Revise § 928.26 to read as follows:

§ 928.26 Vacancies.

To fill my vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in §§ 928.20, 928.22, and 928.23: *Provided*, That the committee may in its discretion submit its recommendation to the Secretary of a nominee eligible to serve in accordance with the requirements specified in § 928.20. To the extent practicable, the committee's recommended nominee for a grower member or alternate grower member position to represent a particular district shall be a grower recommended to the committee by the incumbent grower representatives of the committee from a particular district, or such nominee shall be a qualified grower recommended by the grower group with which the former

member was associated immediately prior to vacating the position; and the recommended nominee for a handler member or alternate handler member position shall be the handler recommended to the committee by the incumbent handler representatives of the committee, or such nominee shall be a qualified handler recommended by the packinghouse with which the former member was associated immediately prior to vacating the position.

9. Amend § 928.31 by revising paragraph (o) to read as follows:

§ 928.31 Duties.

* * * * *

(o) With the approval of the Secretary, to redefine the districts into which the production area is divided, to reapportion the grower member representation on the committee among the districts, to increase or decrease the number of grower and handler members and alternates on the committee, and to change the composition of the committee by changing the ratio between grower and handler members including their alternates. Any such changes shall reflect, insofar as practicable, structural changes within the papaya industry and shifts in papaya production amoing the districts within the production area.

10. Amend § 928.32 by revising paragraph (a) to read as follows:

§ 928.32 Procedure.

(a) A majority of all members of the committee, including alternates acting for members, shall be necessary to constitute a quorum and such majority must concur to approve any committee action.

* * * * *

11. Amend § 928.41 by revising the last sentence in paragraph (b) to read as follows:

§ 928.41 Assessments.

* * * * *

(b) * * * Assessments not paid within a period of time prescribed by the committee may be made subject to interest or late payment charges, or both. The period of time, rate of interest, and late payment charge shall be as recommended by the committee and approved by the Secretary. When such interest or late payment charges are in effect, they shall be applied to all assessments not paid within the prescribed period of time.

12. Amend § 928.52 by revising paragraphs (a)(3) and (a)(4) to read as follows:

§ 928.52 Issuance of regulations.

(a) * * *

(3) Fix the size, capacity, weight, dimension, marking, or pack of the container, or containers, which may be used in the packaging or handling of papayas.

(4) Prescribe different requirements under paragraphs (a)(1) through (a)(3) of this section for the handling of any variety of papayas to destinations within any geographical area or market type identified and recommended by the committee and approved by the Secretary.

* * * * *

13. Amend § 928.55 by adding a new paragraph (c) to read as follows:

§ 928.55 Inspection and certification.

* * * * *

(c) The committee, with the approval of the Secretary, may prescribe such rules and regulations as it may deem necessary to assure compliance with this section and provide for identification of containers of papayas which have been inspected and certified for handling.

14. Revise § 928.64 to read as follows:

§ 928.64 Termination.

(a) The Secretary may at any time terminate the provisions of this order by giving at least one day's notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this order whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

(c) The Secretary shall terminate the provisions of this order at the end fiscal year whenever the Secretary finds by a referendum or otherwise that continuance is not favored by the majority of producers who, during a representative period determined by the Secretary, were engaged in the production area in the production of payayas for market: *Provided*, That such majority has produced for market during such period more than 50 percent of the volume of papayas produced in the production area. Such termination shall be effective only if announced on or before December 15 of the then current fiscal year.

(d) Upon recommendation of the committee, received not later than October 1 of an even-numbered year, the Secretary shall conduct a referendum prior to December 1 of such year to ascertain whether continuance of this order is favored by the producers.

(e) The Secretary shall conduct a continuance referendum every sixth fiscal year prior to October 1, with the first such referendum to be conducted with 6 years from the effective date of this amendment of this section, to ascertain whether continuance of this order is favored by producers. The Secretary may terminate the provisions of this order at the end of any fiscal year in which the Secretary has found continuance of this order is not favored by producers who, during a representative period determined by the Secretary, have been engaged in the production for market of papayas in the production area. Such termination of the order shall be effective only if announced on or before December 15 of the then current fiscal year.

(f) The provisions of this order shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

[FR Doc. 87-12766 Filed 6-3-87; 8:45 am]
BILLING CODE 3410-02-M

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7 CFR Part 959

Onions Grown in South Texas; Proposed Increase in Rate of Assessment for 1986-87 Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize an increase in the rate of assessment to cover the expenses of the South Texas Onion Committee for the 1986-87 fiscal period. The assessment rate would be increased from four cents to five and one-half center per 50-pound container or equivalent. The change is necessary for the committee to meet its 1986-87 expense obligation. Adverse weather during the 1987 growing season significantly reduced the assessable tonnage and the current rate of assessment will not generate sufficient funds to meet authorized committee expenses. Assessments are paid by handlers under the marketing order program. The committee works with the Department in administering that program.

DATES: Comments due June 15, 1987.

ADDRESSES: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2085, South Building, U.S. Department of Agriculture, Washington, DC 20250-1400. Three copies of all written materials should be submitted, and they will be available for public inspection at the office of the Docket Clerk during regular business hours. Comments should reference the date and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250–1400, telephone (202) 475–3914.

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

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (the Act, 7 U.S.C. 601 through 674), and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities action on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that 40 South Texas onion handlers will be subject to this regulation during the course of the current season. In addition, there are about 160 producers in the production area. The majority of these producers and handlers may be classified as small entities as defined by the Small Business Administration (SBA). The SBA defines agricultural service firms, like handlers, as those whose gross annual receipts were less than $3.5 million and small agricultural producers as those having average annual gross revenues for the last three years of less than $100,000 (13 CFR 121.2).

This proposed rule is issued under the marketing agreement and Marketing Order 959, both as amended, regulating the handling of onions grown in South Texas (7 CFR Part 959). The assessment rate increase was recommended by the South Texas Onion Committee in a telephone vote completed on May 4, 1987. Fourteen of the seventeen committee members voted on this proposal, and all of the members who voted favored the proposal.

A final rule establishing expenses in the amount of $283,227 for the 1986–87 fiscal period and fixing the assessment rate at four cents per 50-pound container or equivalent quantity for that period was published in the Federal Register on February 26, 1987 (52 FR 5737).

The assessment rate is derived by dividing anticipated expenses by expected shipments of the commodity (e.g. pounds, tons, boxes, cartons, etc.). That rate is applied to actual shipments to produce income sufficient to pay the committee's expenses. The proposed assessment rate increase in this instance is necessary because of a significant crop shortfall due to adverse growing conditions.

When the South Texas Onion Committee met October 29, 1986, to prepare and submit its 1986–87 fiscal period budget and assessment rate, it expected 6,768,750 containers of onions to be shipped this season. On this basis it recommended, and the Department established, the current four cent per 50-pound container or equivalent quantity assessment. This would have resulted in assessment income of $270,950 and along with reserve funds would have provided adequate funds for the committee's authorized expenditure.

However, due to a cold spell in late March and other adverse weather during the 1986–87 growing season, the assessable tonnage will not be as great as initially expected. Most of the industry expects no more than 4,000,000 containers to be shipped. The deficit is income resulting from the crop shortfall is too large to be made up with the committee's operating reserve. The proposed five and one half cent per container rate of assessment would generate $220,000. This amount, along with the committee's reserve funds, would provide adequate funds to meet the committee's authorized expenses. The committee's manager has informed the agency that many handlers would prefer to pay this retroactive one and one half cent assessment rate increase this season because the markets have been stronger than most years.

It is the Department's view that the proposal is needed for the committee to generate enough funds for the committee to meet its authorized 1986–87 fiscal period expenses, and to cover expenses next season until assessment income is sufficient to cover authorized 1986–87 fiscal year expenses. The fiscal period begins August 1 and ends July 31. However, onion shipments and the collection of assessments usually do not start until mid-March. Hence, the committee needs funds from previous season assessments to cover the first seven months of expenses during a fiscal period.

While this action would impose some additional costs on handlers to make up for the crop shortfall and income deficit, the costs would be in the form of uniform assessments on all handlers which would not impose a significant economic impact on the small entities involved.

A comment period of 10 days is provided and is deemed appropriate because the shipping season for the 1987 crop is expected to end by the middle of June. Hence, a prompt decision on this proposal is necessary so as many handlers as possible have the opportunity to make adjustments to the retroactive assessment expense.

List of Subjects in 7 CFR Part 959

Marketing agreements and orders, Onions, Texas.

PART 959—[AMENDED]

For the reasons set forth in the preamble, Part 959 is proposed to be amended as follows:

1. The authority citation for 7 CFR Part 959 continues to read as follows:

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

§ 959.227 [Amended]

2. Section 959.227 is amended by changing "$0.04" to "$0.055" (this section prescribes the annual assessment rate and will not be codified in the Code of Federal Regulations).

Dated: June 1, 1987.

William J. Doyle,

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

[FR Doc. 87–12813 Filed 6–3–87; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1944

Rural Rental Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend the Agency's policies and procedures governing: (1) The establishment of a nonrefundable application fee for Section 515, Rural Rental Housing Loan program, except nonprofit and public body applicants, with payment at time of application submittal and, (2) authority for State Directors to contract certain technical services related to loan processing.

No procedures are currently in effect with respect to charging loan application fees. The Agency's proposal to assess application fees would help to offset administrative and contractual costs related to the Section 515 program. This

action will reduce the impact on the Rural Housing Insurance Fund (RHIF).

DATES: Comments must be received on or before August 3, 1987.

ADDRESSES: Interested persons are invited to submit comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION: Contact George W. Porter, Senior Loan Officer and Appraisal Reviewer, Special Authorities Branch, Multi-Family Housing Processing Division, FmHA, USDA, Room 5337, South Agriculture Building, Washington, D.C. 20250; telephone (202) 382–1626 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there will be no increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. There will be no significant adverse effects on competition, employment, investment productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, Environmental Program. It is the determination of FmHA that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an environmental impact statement is not required.

Discussion

(1) Application fee

FmHA is authorized to make direct loans for the purpose of financing multiple family housing in rural communities under section 515 of the Housing Act 1949, Title V, as revised (See 42, U.S.C. 1485). Miscellaneous Regulation, Chapter 97, section 9701 establishes that each service provided by an agency to a person is to be self-sustaining to the extent possible. The 1983 Housing Amendments authorized the Secretary to prescribe charges for appraisals and inspections related to the program. Charges for other purposes are permissible so long as the task does not require supervision by government employees.

Under this proposed rule, an application fee for contract services and other Agency costs would be imposed upon each applicant, except nonprofit and public body applicants. The proposed rule establishes a nonrefundable fee based on the Agency's staffing and other administrative costs related to processing a loan application. The fee rate is established at ½ of one percent of the loan request shown on Form AD–622, "Notice of Preapplication Review Action." This fee is paid by the applicant in the form of a certified check or money order when the full loan application is submitted to FmHA.

(2) Application Fee Justification

The application fee is intended to pay for those services provided by the FmHA when processing a Multiple Family Housing (MFH) proposal. In some cases the State Director may elect to use persons from outside the Agency on a service contract basis. Whether the State Director uses personnel from the Agency or outside contractors to carry out the processing of the application, the fee will be paid at the time of submittal of the application and cannot be refunded.

Actual cost data for service contracts; i.e., appraisals, environmental assessments, inspections, etc., will be collected on all loans and an analysis will be made each year. Deviations of more than 10 percent between actual charges for contracting and the Agency's cost projections will result in a fee review and adjustments to the fee if FmHA determines it appropriate.

The Agency has used the service items shown in the justification example to determine the proposed charge for processing an application and is not attempting to recapture all costs of doing business.

The Agency is proposing to capture the major expenses for the FmHA services provided and most of the expenses for contract services that are paid from the Rural Housing Insurance Fund (RHIF) account. Through the Agency's experience with using commercial contractors and from the FmHA Reporting Management Service (RMS) data base, it is reasonable to justify the use of the fee rate estimated. The RMS flat rates used are current levels which are reviewed annually and modified as needed. The commercial contract estimates are derived from an analysis of actual costs for the services that have been provided by the FmHA field offices and the contract charges. It is realized that these are not all of the expenses disbursed by the Agency, however they are representative of expected future costs.

Based on this information the fee rate is supported by the following estimated hours and salaries:

	Hours
Preliminary applicant contacts—credited with	1
Preapplication reviews—credited with	11
Class II Environmental Assessments—credited with	13
Eligibility determinations—credited with	10
Application reviews and acceptance—credited with	10
Loan processing and reviews—credited with	19
MFH appraisals—credited with	33
Loan closing—credited with	8
Construction inspections—credited with	6
Estimated credit hours	111

Processing Costs:	
District loan officers—salary and fringe benefits at 14.5% of salary, generally GS 12 step 5 (per hour)	$17.25
The loan officers are estimated to use ⅔ of the hours or 75	1,294
Clerical support—salary and fringe benefits at 14.5% of salary, generally GS 5 step 5 (per hour)	8.95
The clerical staff are estimated to use ⅓ of the hours or 36	322
The estimated travel cost, per diem and mileage (an additional 142 hours are credited by RMS for direct work in the MFH loan processing)	200
It is estimated that ½ or 71 hours is at $8.95 ($635) and ½ at $17.25 ($1.225) for a total of	1,860
Subtotal of	3,676
The expense for exempt (nonprofit applicants) and unsuccessful loans are estimated at 15% of the subtotal cost	552
Total estimated expense for each loan	4,228

During fiscal years 1984 and 1985, the Agency used contractors to make MFH appraisals on a demonstration basis. The fees paid to the appraisal contractors during fiscal year 1985 ranged from $1,350 to $2,500. Contract services were available in most areas of the States used in the demonstration. The average charge paid by the Agency during the two year demonstration, for

each appraisal contract was $2,200. It is estimated that technical sservice contracting charges would be based on the time it takes to complete the task.

Therefore, with the estimated minimum of $4,200.00 for the cost to the Agency, and with an average Section 515 RRH loan, without consideration for subsequent loans, at approximately $850,000 over the past few years, the application fee established at ½ of one percent is not excessive and is set at this minimum level until further fee charge information is available.

Vance L. Clark, Administrator, Farmers Home Administration has determined that this action does not have a significant economic impact on a substantial number of small entities, because the action, while increasing costs to applicants in the Section 515 program, will not affect a significant number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

This program is listed in the Catalog of Federal Domestic Assistance under 10.415—Rural Rental Housing. The FmHA programs and projects which are affected by this instruction are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V; 48 FR29112, June 24, 1983).

List of Subjects in 7 CFR Part 1944

Administrative practice and procedure, Aged, Handicapped, Loan programs-Housing and community development, Low and moderate income housing-Rental, Mobile home, Mortgages, Nonprofit organizations, Rent subsidies, and Rural housing.

Accordingly, FmHA proposes to amend Subpart E of Part 1944, Chapter XVIII, Title 7, Code of Federal Regulations as follows:

PART 1944—HOUSING

1. The authority citation for Part 1944 continues to read as follows:

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

Subpart E—Rural Rental Housing Loan Policies, Procedures and Authorizations

2. Section 1944.215 is amended by revising paragraph (o) to read as follows:

§ 1944.215 Special conditions.

* * * * *

(o) *Guidelines for preparing environmental assessments and enviromental impact statements.* All projects shall comply with Subpart G of Part 1940 of this chapter. Projects involving section 8/515 loans shall also comply with Exhibit H of this subpart. All Class I Environmental Assessments and the substantial majority of Class II Environmental Assessments will be prepared by FmHA staff. However, housing proposals that require a Class II Environmental Assessment and that have associated unique complex or controversial environmental impacts are eligible for having the necessary assessment or portion(s) of the assessment prepared by a qualified contractor. Contractors may also be used to complete Environmental Impact Statements (EIS) as well as portions of EISs. Both EIS and eligible assessment contracting require the prior approval of the National Office Program Support Staff (PSS). For eligible Class II Assessments the State Director will establish a bidding process with those firms determined qualified by the State Environmental Coordinator (SEC) and the contracting officer. The successful low bidder will be selected. The solicitation process can only be based upon one or more specific eligible Class II Environmental Assessments as determined eligible by the SEC. The basis for the contract's scope of work will be Exhibit H of Subpart G of Part 1940 of this chapter as well as any other particular environmental concerns, impacts or issues associated with the proposal(s) to be assessed. A contract for an EIS must be solicited on an individual project basis with prior consultation of the National Office's Program Support Staff regarding the contract's scope of work. Whether an eligible assessment of EIS is being prepared by a contractor, the FmHA officials responsible for the environmental review process (see § 1940.316 of Subpart G of Part 1940 of this chapter) remain responsible for the content of the environmental document and must execute all required FmHA environmental findings and determinations. Consequently all contractors will be required to submit drafts of their work products to the FmHA official responsible for the completion of the environmental document. FmHA will thoroughly review the drafts and advise the contractor of deficiencies and necessary corrective actions. Whenever there is a need to explore alternatives or mitigation measures with the applicant this will be undertaken directly by FmHA staff. The contractor should participate in such discussions and be required to analyze the consequences of the alternatives and mitigation measures, as well as incorporate within the assessment FmHA's decisions on alternatives and mitigation measures. As part of the contract, contractors may be used to draft necessary public notices, make presentations at FmHA public information meetings, record such meetings, and provide FmHA with suggested responses to comments received. FmHA must concur in the need for any public notice required under Subpart G of Part 1940 of this chapter and so advise the applicant as opposed to the contractor so doing. No contractor may be enployed under this section who has a financial or other interest in the outcome of the proposed housing project.

* * * * *

3. Section 1944.216 is added to read as follows:

§ 1944.216 Nonrefundable application fee.

(a) *Payment of an application fee.* Individuals or organizational applicants will pay an application fee to partially offset the FmHA cost of processing their loan. When the applicant is a consumer cooperative, nonprofit corporation, or a public body as defined by this subpart, this fee is not applicable. This fee shall be considered an authorized loan purpose. Application fees may be credited as part of the applicant's 5 percent contribution.

(b) *Fee amount.* The fee will equal one-half of 1 percent (½%) of the proposed loan amount as shown on Form AD–622, "Notice of Preapplication Review Action." The application fee will be a one time nonrefundable charge that will be paid by certified check or money order when the loan application is submitted to FmHA.

(c) *Fee submittal.* The applicant will make the check or money order payable to Farmers Home Administration. The check or money order will be deposited into the Concentration Banking System. In those locations not participating in the Concentration Banking System, the check or money order will be sent directly to the Finance Office. In either case, the fee will be identified as an application fee to be credited to the Rule Housing Insurance Fund on Form FmHA 1944–9, "Multiple Family Housing Certification and Payment Transmittal." This form should be included with the Daily Activity Report.

4. Section 1944.222 is amended by revising paragraph (a) and the introductory text of paragraph (k) to read as follows:

§ 1944.222 Technical, legal, and other services.

(a) *Technical services.* When real estate is taken as security, the property will be appraised by an FmHA

authorized multiple family housing appraiser or a qualified contract/fee appraiser in accordance with FmHA Instruction 1922–B. (Available in any FmHA office.) All contract/fee appraisers must be qualified individuals or firms with current certified members of the American Institute of Real Estate Appraisers (AIREA), Society of Real Estate Appraisers (SREA), or members of equivalent organizations requiring income property appraisal education and experience. Eligible Class II Environmental Assessments or portions of them may be considered for contracting by qualified individuals or firms who have sufficient interdisciplinary environmental analytical skills to assess the majority of the environmentl impacts identified in Exhibit H of Subpart G Part 1940 of this chapter or that portion of the assessment that is the subject of the proposed contract. Examples or organizations that may meet the qualifications are: (1) Planning firms, (2) engineering and architectural firms with experience in urban or regional planning, and (3) environmental consulting firms. Contracting for appraisals will be given priority when the State director has established a monitoring system to determine acceptance of the contracts presented. The use of contracting authority for the MFH program will require prior authorization by the National Office.

(1) There are major differences between the appraisal, environmental, and other technical services. The State Director must consider these processing differences when considering the use of contractors. Contracting for MFH appraisals will be done according to FmHA Instruction 2027–A. Contracting for eligible Class II assessments may only be done on a specific project(s) basis with prior approval of the National Office Program Support Staff. Because the appraisal services are complex, the following factors must be considered before deciding whether separate contracts or annual contracts will be used:

(i) Generally MFH projects are scattered over a large area and are requested at various intervals, thus only contract appraisers within the area are interested in completing a solicitation.

(ii) The eligibility requirements for these contractors will limit who can request the solicitations.

(iii) The lowest bidder able to provide the service within the time required and in an acceptable manner is to be seclected.

(2) Contracting will not be permitted for MFH inspections, because the owner has already contracted with the project architect who arranges for the necessary inspections required. FmHA is required to make the final inspection and any others determined necessary by the Agency during the construction period. All contracting proposed for other MFH purposes will be requested through the MFH Division at the National Office prior to advertising or soliciting for contrators to apply.

(i) All MFH contracts will follow standard industry practices as provided in FmHA Instruction 2024–A, 1922–B and 1940–G. In all environmental matters, while FmHA may contract pursuant to Subpart G of Part 1940 and this subpart, all final decisions must be FmHA's

(ii) The State Director has two options with respect to contracting for appraisals.

(A) Contracting for appraisals will be given priority unless the services requested are not available, or under circumstances listed in paragraph (a)(2)(ii)(B) of this section. Contracting for Class II Environmental Assessments are limited to those eligible assessments or portions of assessments identified in § 1944.215 (o) of this subpart. Any EIS is eligible for contracting. The State Director will establish a system to provide technical services in accordance with FmHA Instruction 1922–B, § 1922.54 and Subpart G to Part 1940 of this chapter. At the time the contractors are contacted, those applying will provide a copy of their current designation or certification or other qualification papers. At the time of the solicitation, the following will apply:

(*1*) Contractors will be required to personally certify that they meet recognized training and experience standards included in the contract and have no financial interest in the outcome of the FmHA project decision.

(*2*) The Contract and Solicitation process will be used according to the requirements set forth in FmHA Instruction 2024–A, § 1944.214 (o) of this subpart, and the requirements established in the contract. Contract costs will be processed in accordance with FmHA Instruction 2024–P, "Cost Payments."

(B) The State director will use FmHA designated MFH staff to complete appraisals under the following situations:

(*1*) To perform the required services when a State contracting system for the sevices is desired, yet contractors are not able to complete the required services within 45–60 days from the FmHA contract request.

(*2*) To perform services in unique situations, such as: the introduction of an uncoventional housing design and/or style where the cost approach is the predominate source for determining the estimated value, and where the various markets are not able to provide useful data to the market and income approaches of the appraisal for determining the final estimated value; or some other situation that is unusual, and the expertise is not readily available from industry sources. In any circumstances, before a unique service is assigned to members of the staff, the State Director or designee will consult with the Multi-Family Housing Processing Division Director, and Program Support Staff for guidance on identification and use of other technical resources.

(*3*) To maintain the skills of FmHA staff members within the State, that are designated to perform the services.

* * * * *

(k) *Insurance.* The loan approval official will determine the minimum amounts and types of insurance the applicant will carry, based on replacement cost of buildings. This may be determined from a current appraisal or from an on site inspection of the project.

* * * * *

(5) Section 1944.231 is amended by revising paragraph (d)(3) to read as follows:

§ 1944.231 Processing preapplications.

* * * * *

(d) * * *

(3) When an applicant is notified to proceed with an application the District Director should establish specific deadlines for developing the proposal to avoid unreasonable delays by those applicants not prepared to proceed. In addition, the following paragraphs should be contained on or attached to Form AD–622:

(i) The review action taken by FmHA is based upon representations made in your preapplication presented to FmHA. Any changes in approximate project costs, size or scope of the project, rental rates to the tenants or subsidy costs to the Government, scope of services, sources of funds, or any other significant changes in the project or applicant, must be reported to and approved by FmHA in writing.

(ii) Any changes not approved by FmHA shall be cause for discontinuing processing of the application. All applicants requesting changes will be required to give full justification for each change, and if FmHA approval is not given, written reasons should be

provided along with a 30 day negotiation period to resolve the differences."

(iii) This action is not to be considered as loan approval or as a representation of the availability of funds.

(iv) The loan docket may be completed on the basis of a loan not to exceed the amount shown on Form AD–622."

(v) The *application fee* will be submitted by certified check, cashier's check or money order to FmHA with the application and is non-refundable. This fee will be .05 percent (½ of 1%) of the loan amount shown on the AD–622. The application fee may be credited as part of the 5 percent contribution requirement."

(vi) If a complete application has not been developed in approvable condition by the date specified on Form AD–622, FmHA reserves the right to discontinue processing the application."

6. Section 1944.232 is amended by revising paragraph (h) to read as follows:

§ 1944.232 Preparation of completed loan docket.

* * * * *

(h) *Establishing borrower/project data.* Prior to issuing the Form AD–622, the State Director/District Director or a designee will establish on the Finance Office accounting record through field office terminals, that information contained in Form FmHA 1944–50, as indicated in the FMI and MFH User Procedures. Subsequent to this entry the application fee will be computed using transaction screen M8T "Record Miscellaneous Receivables," as follows:

(1) The User enters State and District codes and applicant ID number. The system fills in the applicant's name.

(2) The User enters collection code and amount of loan as shown on the AD–622.

(3) The system computes the fee based on the collection code and displays it in *AMOUNT DUE FROM BORROWER* field.

(4) The amount computed on the M8T screen will be recorded on the AD–622 as the amount of the required Application Fee.

Dated: April 30, 1987.

Laverne Ausman,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 87–12765 Filed 6–3–87; 8:45 am]

BILLING CODE 3410–07–M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operation; Borrower Rights

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration Board (Board) publishes for comment proposed amendments to the credit review committee regulations at 12 CFR 614.4440 through 614.4444.

The Farm Credit Administration (FCA) published final regulations on this subject on October 28, 1986, which were effective November 28, 1986. Comments on certain aspects of the regulation were received until December 30, 1986. In response to those comments, the Board published amendments to the regulations on April 15, 1987, which were effective May 20, 1987. The Board determined that further amendments to the regulations should be proposed for public comment.

DATE: Written comments are due on or before August 3, 1987.

ADDRESSES: Submit any comments in writing (in triplicate) to Frederick R. Medero, General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

FOR FURTHER INFORMATION CONTACT: Nancy E. Lynch, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: The Farm Credit Amendments Act of 1985 (1985 Amendments) amended the provisions of the Farm Credit Act of 1971, as amended (Act), regarding the internal procedures of Farm Credit System (System) institutions concerning review of denials on loan applications. As amended, section 4.14 of the Act requires System institutions to establish credit review committees, which must include at least one member of the institution's board of directors. The regulations at 12 CFR 614.4440 through 614.4444 implement these statutory provisions. These regulations were effective November 28, 1986. Amendments published on April 15, 1987, were effective May 20, 1987. The initial amendments were in response to comments received by the Board on four specific areas of the final regulations. See 52 FR 12143.

During the consideration of the initial amendments, the Board perceived a need for further amendments to the regulation. Due to the nature of the changes, the Board determined that public comment should be invited on the additional amendments. Specifically the Board proposes to amend 12 CFR 614.4440(c) to include the Federal land banks (FLBs) and the Federal intermediate credit banks (FICBs) in the definition of "System institution." As a result of the expanded definition, changes are also proposed to 12 CFR 614.4442. The amendment proposes that each System institution establish one or more credit review committees. These amendments are the result of comments addressed to the Board from borrowers and System institutions which indicated some concern that the credit review process be conducted at the level of the decisionmaking on a loan, e.g., at the FICB for loans to production credit association directors (official loans) for which the FICB has approval authority. It is not intended that the credit review committees at the FICB or at the FLB exercise any type of review over final decisions of credit review committees at the association level. The amendment is intended only to provide the borrower with an opportunity to have an adverse decision reviewed by the actual decisionmaker.

The second area of concern involves the delegation of the duties of the institution's Board member of the credit review committee, as now permitted by 12 CFR 614.4442(a) and (b). Although the Board has not changed its position that delegation may be appropriate, especially in districtwide associations, concerns have been raised that stockholders have a legitimate interest in having an elected Board member actively participate on the credit review committee. Therefore, the Board proposes to amend the regulation to permit the designation of an alternate who may perform the credit review committee duties but who also must be a member of the institution's Board. The Board reiterates its position as stated in the preamble to the final regulations that it seeks to balance the potentially conflicting goals of enhancing the operational efficiency of the System and protecting borrowers' rights.

List of Subjects in 12 CFR Part 614

Agriculture, Banks, Banking, Credit.

As stated in the preamble, it is proposed that Part 614 of Chapter VI, Title 12 of the Code of Federal Regulations be amended as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for Part 614 continues to read as follows:

Authority: 12 U.S.C. 2183, 2199, 2202, 2243, 2244, 2252(a)(10).

2. Section 614.4440 is amended by revising pararaph (c) to read as follows:

Subpart L—Notice of Action and Review

§ 614.4440 Definitions.

* * * * *

(c) "System institution" means (1) banks for cooperatives; (2) Federal land banks; (3) Federal intermediate credit banks; (4) Federal land bank associations; (5) production credit association; and (6) The Farm Credit System Capital Corporation.

3. Section 614.4442 is amended by removing paragraphs (a) and (b) and inserting the following:

§ 614.4442 Credit review committees.

The board of directors of each System institution shall establish one or more credit review committees to review adverse credit decisions made by the institution. The membership of each committee shall include at least one member of the institution's board, and a majority of each committee shall be composed of persons who were not involved in making the adverse credit decision under review. The duties of the members of the review committees may not be delegated to any other person, except that the credit review committee duties of the board member may be performed from time to time by an alternate designated by the board who shall also be a board member. Provided further that, in the case of The Farm Credit System Capital Corporation board member, by unanimous vote, the Capital Corporation board may designate an alternate who is a member of the board of the institution that originated the loan under review by the committee, and who is willing to serve.

William A. Sanders, Jr.,

Secretary, Farm Credit Administration Board.

[FR Doc. 87-12737 Filed 6-3-87; 8:45 am]

BILLING CODE 6705-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-5-FRL-3213-2]

Approval and Promulgation of Implementation Plans; Wisconsin

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

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing to approve a request from the State of Wisconsin to revise the attainment status designation, at 40 CFR 81.350, for a subcity portion of the City of Milwaukee from primary nonattainment to full attainment for the sulfur dioxide (SO_2) national ambient air quality standards (NAAQS). The intent of this proposed notice is to discuss the results of USEPA's review of the State redesignation request and to provide an opportunity for public comment. Under the Clean Air Act (CAA), designations can be changed if sufficient data are available to warrant such a change.

USEPA is proposing to redesignate the Milwaukee area to full attainment. However, before USEPA can consider final approval of this redesignation for the Milwaukee area, it must approve the States's emission limitations for all sources in the Milwaukee nonattainment area.

DATE: Comments on this proposed rule must be received by July 6, 1987.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031, before visiting the Region V office.)

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

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

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the CAA, the Administrator of USEPA has promulgated the NAAQS attainment status for all areas within each State. For Wisconsin, see 43 FR 6962 (March 3, 1978), and 43 FR 45993 (October 5, 1978). These area designations are subject to revision whenever sufficient data become available to warrant a redesignation. A subcity portion of the City of Milwaukee was redesignated to primary nonattainment for SO_2 NAAQS on October 10, 1980 (45 FR 67348)

Redesignation Criteria for SO_2

USEPA'S criteria for Section 107 redesignations for SO_2 are sumarized in two policy memoranda: (1) An April 21, 1983, memorandum from sheldon Meyers, then Director of the Office of Air Quality Planning and Standards (OAQPPS), subject: "Section 107 Designation Policy Summary:" and (2) A December 23, 1983, memorandum from G.T. Helms, Chief of the Control Programs Operation Branch, OAQPS, subject: "Section 107 Questions and Answers." In general, all available information relative to the attainment status of the area should be reviewed, including the most recent eight consecutive quarters of monitored air quality data, evidence of an implemented control strategy, any available air quality modeling analyses, and source emissions data. It should also be determined whether the monitoring data accurately characterizes the worst-case air quality in the area. Information submitted to support attainment redesignations must adequately and accurately reflect long-term source operating rates and local economic conditions in the area being redesignated.

Redesignation Request

On May 12, 1986, pursuant to section 107(d)(5) of the CAA, the WDNR requested that the Milwaukee subcity area be redesignated to full attainment of the SO_2 NAAQS. In addition, the WDNR submitted additional information on July 11, October 1, and October 15, 1986, including evidence that the implemented SO_2 emissions controls are responsible for the observed air quality improvement in the Milwaukee area.

USEPA Approved SIP and Compliance Certification

The WEPCo Valley Plant is the major SO_2 source in the Milwaukee nonattainment area. USEPA proposed to approve the Wisconsin SO_2 rule for the WEPCo Valley Plant on August 17, 1984 (49 FR 32865), and final action is expected in the near future.

A revised SO_2 plan (emission limitations and compliance test methods), along with a modeled attainment demonstration, has been submitted by the WDNR for all other sources in the Milwaukee area. USEPA is in the process of rulemaking on this plan as part of Wisconsin's overall statewide SO_2 plan. USEPA's final approval of the redesignation for the Milwaukee area to full attainment cannot occur until it gives final approval

of the plan for all other SO_2 sources in the Milwaukee area.

Air Data

No SO_2 ambient standard violations have been monitored in the Milwaukee area during the most recent two calendar years. Evaluated on a block average basis, USEPA believes that the recent air quality improvement can be attributed primarily to SO_2 emissions reductions at the WEPCo Valley Plant.

The State's modeling consisted of:

1. *Model*—Urban Air Quality Model for Point and Area Sources to USEPA User's Network for Applied Modeling of Air Pollution (UNAMAP) Series (RAM).
2. *MET Data*—1973–1977 Milwaukee (surface) and Green Bay (upper air).
3. *Emission Inventory*—over 35 sources in Milwaukee County at maximum allowable emissions.
4. *Background*—100 micrograms per cubic meter (ug/m^3) (24-hour) and 262 ug/m^3 (3-hour).
5. *Receptor Resolution*—General 0.5 kilometer coarse grid (full year run), 0.1 kilometer fine grid (critical day run).
6. *Result*—Attainment of NADS demonstrated. No Prevention of Significant Deterioration (PSD) increment consumption analysis was required (baseline date not triggered). No interstate impact analysis required (no other State within 50 kilometers).

Conclusion

USEPA is proposing to redesignate the Milwaukee subcity area to full attainment SO_2. However, before USEPA can consider final approval of this redesignation, it must finally approve the State's emission limitations for all sources in the Milwaukee nonattainment area.

All interested persons are invited to submit comments on the proposed redesignation. Written comments received by the date specified above will be considered in determining whether USEPA will approve the redesignation. After review of all comments submitted, the Administrator of USEPA will publish in the Federal Register the Agency's final action on the redesignation.

Under 5 U.S.C. section 1605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Authority: 42 U.S.C. 7401–7642.

Dated: December 23, 1986.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 87–12725 Filed 6–3–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 86

[FRL–3182–1]

Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines; Revision of Particulate Emission Standards for Certain 1987 and Later Model Year Light-Duty Diesel Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes that the following particulate standards be established under the Clean Air Act for light-duty diesel trucks with a loaded vehicle weight of 3751 pounds or above (LDDT2): 0.50 grams per mile for the 1987 model year; 0.45 grams per mile for the 1988 through 1990 model years; and 0.13 grams per mile for the 1991 and later model years. Particulate standards for light-duty diesel trucks with a loaded vehicle weight of 3750 pounds or below (LDDT1) will remain unchanged. Particulate emissions averaging would not be available for LDDT2s for the 197 through 1990 model years, although it would continue to be available for LDDT1s and diesel passenger vehicles. Beginning in 1991, particulate emissions averaging between different engine families of LDDT2s would be allowed.

Nonconformance penalties are also proposed for the heavier portion of the 1991 and later model year LDDT2s which may fail to comply with the proposed 0.13 grams per mile particulate emission standard.

The Agency is proposing these regulations in response to a petition from General Motors Corporation that outlines a plan to develop control technology which could substantially reduce light-duty diesel truck particulate emissions from current control levels.

DATES: EPA will conduct public hearings on this notice of Proposed Rulemaking on July 6, 1987, if any interested party notifies EPA by June 25, 1987, that it wishes to present oral testimony. To determine whether a hearing will occur, call the contact person listed below. Pursuant to section 307 of the Clean Air Act, comments on this proposal will be accepted until August 3, 1987. Additional information on the submission of comments can be found in the Addresses section of this notice.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–86–20, at: Environmental Protection Agency, Central Docket Section (A–130), Attention: Docket No. A–86–20, West Tower Lobby, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

Copies of materials relevant to this rulemaking are contained in the above-mentioned public docket, and are available for review at West Tower Lobby/Gallery I, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

Commenters desiring to submit proprietary information for consideration should clearly distinguish such information from other comments to the greatest extent possible, and clearly label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the contact person listed below and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket.

Information covered by such a claim of confidentiality will be disclosed by EPA only to the exent allowed by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the commenter.

FOR FURTHER INFORMATION CONTACT: Carol Bengle (EN–340–F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Telephone: (202) 475–8657.

SUPPLEMENTARY INFORMATION:

I. Background

EPA regulations promulgated under the Clean Air Act require that particulate emssions from light-duty diesel trucks (LDDTs) be reduced from 0.60 grams per mile (g/mi) to 0.26 g/mi beginning with the 1987 model year. 49 FR 3010 (January 24, 1984), *codified at* 40 CFR 86.087–9 (1986). However, EPA regulations permit manufacturers unable to meet the 0.26 g/mi standard to sell their LDDTs in excess of 6000 pounds gross vehicle weight rating (GVWR) if they pay nonconformance penalties (NCPs). (The Clean Air Act does not make NCPs available for vehicles weighing less than 6000 pounds GVWR.) EPA made NCPs available for the 0.26 g/mi standard upon finding that the new standard is significantly more difficult to meet than the 0.60 g/mi standard, requires substantial work to meet, and is likely to create a manufacturer who is a technological laggard. 50 FR 53454 (December 31, 1985).

General Motors Corporation (GM) has submitted to the Administrator a petition requesting that the 0.26 g/mi

standard particulate standard be modified for those LDDTs with a loaded vehicle weight (LVW) of 3751 pounds or greater, otherwise known as LDDT2s.[1] (*See* Petition of December 19, 1986, Docket No. A–86–20–II–D–2, revising April 17, 1986 version) GM believes that the 0.26 g/mi standard is not technologically feasible by model year 1987 for its 6.2 liter (6.2L) diesel engine family. According to confidential sales estimates submitted by manufacturers to EPA's Certification Division, the 6.2L engine family appears to be the only full-size, large displacement engine family in the LDDT2 class expected to be sold in model year 1987.[2] GM stated that the 6.2L LDDT could most likely comply with the 0.26 g/mi standard by the standard by the 1989 model year, largely through refinement of already existing technology, e.g., electronically controlled exhaust gas recirculation, catalytic converters, and electronically controlled fuel injection.

GM requested that for LDDT2s, the particulate standard be relaxed to 0.50 g/mi for 1987 and 0.45 g/mi for 1988 through 1990 and then tightened to 0.13 g/mi beginning with the 1991 model year. In effect, GM's proposal is to relax the standard for model years 1987 through 1990 to permit manufacturers to focus their efforts on development of advanced particulate control technology which would, in turn, allow compliance with a 0.13 g/mi particulate emission standard by 1991. In exchange for the near-term relaxation of the 0.26 g/mi standard, GM claimed that there would be a significant long-term environmental benefit from the development of more effective particulate-control technology applicable not only to LDDT2s, but potentially to other diesel vehicle classes as well.

As part of its petition, GM set forth a proposed research and development plan on which it based its projection of the probable technological feasibility of a 0.13 g/mi standard by model year 1991. The plan pursues an advanced particulate control technology with a particulate trap-oxidizer system ("trap") as its primary objective. Traps filter particulate matter from diesel exhaust, then burn off the trapped matter. Traps have already been installed on some diesel passenger cars, but application of traps to LDDT2s presents different technological issues, such as durability during the longer useful life of light-duty trucks, that in GM's opinion have yet to be resolved. GM's proposed plan targets these issues for resolution by 1991, even in the event GM discontinues production of its 6.2L LDDT. GM's petition also asked EPA to make NCPs available for the proposed 1991 standard.

The Agency has carefully considered GM's petition and the technology development program it has proposed. Specifically, the research and development plan outlined by GM suggests that a 0.13 g/mi standard is attainable by model year 1991. EPA believes that the 0.13 g/mi standard could create significant environmental benefits. The standard would likely halve particulate emissions from LDDT2s compared to the 0.26 g/mi standard currently in place for the same time frame. Although the plan outlined in GM's petition would extend the period over which particulate standards are tightened, EPA analysis shows that GM's suggested schedule of standards could realize a net LDDT2 emissions reduction over the 1987 and later model year 0.26 g/mi standard as early as 1995, assuming a moderate increase in LDT sales, plus a moderate increase in diesel sales penetration of that LDT market. (*See* Particulate Emissions Projection of the GM 6.2L Diesel Engine, Docket No. A–86–20–IIA–B–1 hereinafter "No. IIA–B–1.") Given the health and environmental hazards associated with particulate matter (see section IV, *infra*), a net reduction in LDDT2 particulate emissions would clearly be beneficial.

A more significant potential benefit of GM's suggested technology-forcing strategy is that it could reduce particulate emissions from classes of vehicles in addition to LDDT2s. LDDT2s meeting a 0.13 g/mi standard would be controlled to a level substantially below the concurrent standards for lighter LDDTs and diesel passenger vehicles. Even though LDDT2s do not emit a large proportion of total disesel motor vehicle particulate emissions, EPA believes that if particulate trap technology capable of meeting a 0.13 g/mi standard is developed for LDDT2s, it could be transferable to lighter vehicle classes. Further, LDDT2 trap technology might also be transferable to heavier vehicles, a possibility GM notes in its petition.

Considering GM's showing of the likely feasibility of a 0.13 g/mi standard, and EPA's analysis of the environmental benefits that the 0.13 g/mi standard would likely yield, EPA has decided to propose the schedule of revised standards outlined in GM's petition. The Agency has also decided to make NCPs available for 1991 and subsequent model year LDDT2s subject to the 0.13 g/mi particulate standard. (*See* Section III.B. *infra*).

II. Statutory Authority

Some LDDT2 exceed 6000 pounds GVWR, and thus qualify as heavy-duty vehicles (HDV) under section 202(b)(3)(C) of the Act, 42 U.S.C. 7521(b)(3)(C). Other LDDT2s, while exceeding 3751 pounds LVW, do not exceed 6000 pounds GVWR, and thus are not HDVs.

For LDDT2s, which are also HDVs, section 202(a)(3)(A)(iii), 42 U.S.C. 7521(a)(3)(A)(iii), authorizes EPA to promulgate particulate emission standards.

For LDDT2s which are not HDVs, section 202(a)(1) of the Clean Air Act, 42, U.S.C. 7521(a)(1), provides that the Administrator shall "by regulation prescribe . . . standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles . . . which may reasonably be anticipated to endanger the public health or welfare. . . . " Particulate matter may be regulated as a threat to the public health and welfare. *NRDC* v. *EPA*, 655 F.2d 318, 327 (D.C. Cir.), *cert. denied*, 454 U.S. 1017 (1981).

Section 202(a)(3)(A)(iv), 42 U.S.C. 7521(a)(3)(A)(iv), authorizes EPA to categorize heavy-duty vehicles and engines according to vehicle weight, horsepower, "or such other factors as may be appropriate." Section 202(a)(1) grants EPA broad discretion to define classes of vehicles for purposes of setting standards under that section.

Section 206(g) of the Act, 42 U.S.C. 7525(g), permits the Administrator to promulgate NCPs for nonconforming heavy-duty vehicles and engines which do not exceed an "upper limit" of emission nonconformity. Section 206(g)(3) requires NCPs to be designed so as to:

- Increase with the degree of emission nonconformity;
- Increase periodically to provide incentives for nonconforming manufacturers to achieve the emission standard; and
- Remove any competitive disadvantage to conforming manufacturers.

Finally, section 301(a) of the Act, 42 U.S.C. 7620(a), provides in part that "the Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act."

III. Summary of Proposed Rule

A. Particulate Emission Standards

This proposal subdivides the LDT class into LDDT1s and LDDT2s for the

[1] EPA Previously distinguished between LDDT2s and the lighter LDDT1s in setting NOx emission standards. *See* 50 FR 10606, 10620 (March 15, 1985).

[2] Only two other manufacturers are selling LDDT2s for the 1987 model year. Both of their models have smaller engines than GM's and one is significantly lighter; thus they emit less particulates.

purpose of setting particulate emissions standards. As noted above, EPA has similarly subdivided the LDT class for the purpose of setting NOx emission standards. This was done in order to reflect the relative emission-control capability of the different subclasses. In a final rule published in 1985, EPA required LDDT2s to meet a less stringent NOx standard than LDDT1s, on the rationale that the heavier LDTs produce more emissions, and thus are more difficult to control. *See* 50 FR 10606, 10620 (March 15, 1985).

LDDT1s will continue to be subject to the 0.26 g/mi standard which went into effect beginning with the 1987 model year. EPA proposes to revise the standard as it applies to LDDT2s from 0.26 g/mi to 0.50 g/mi for model year 1987, 0.45 g/mi for model year 1988 through 1990, and 0.13 g/mi for 1991 and later model years.

The proposed pre-1991 standards are tighter than the 1986 model year standard of 0.60 g/mi and might require additional control measures, yet they would permit manufacturers to focus their attention and resources on development of a particulate trap-oxidizer system, instead of a system which refines existing technology. EPA has determined that the proposed 1991 standard of 0.13 g/mi is equivalent in stringency to the particulate standard of 0.10 gram per brake horsepower-hour (g/BHP-hr) applicable to 1994 and later model year heavy-duty engines (HDEs) to be installed in vehicles exceeding 8,500 pounds GVWR. Thus, the 0.13 g/mi particulate standard would require the installation and development of traps, because EPA has already found that the 0.10 g/BHP-hr standard will require use of a trap-ozidizer system. *See* 50 FR 10606 (March 15, 1985).

EPA derived the 0.13 g/mi particulate standard for LDDT2s using the same methodology it employed to derive the trap-forcing 0.10 g/BHP-hr particulate standard for HDEs. That methodology considers such factors as trap efficiency, engine-out levels, deterioration rate for engine-out emissions, and compliance margin.

The proposed 1987 through 1990 model year particulate standards would be low-altitude standards. These interim standards would permit manufacturers to concentrate on the development of advanced technology to meet the 1991 and later model year particulate standard of 0.13 g/mi at all altitudes. Accordingly, the 0.13 g/mi particulate standard for 1991 and later model years would be an all-altitude standard.

The Agency's proposal would permit particulate averaging between different engine families of LDDT2s, beginning with the 1991 model year. It does not permit particulate averaging between LDDT2s and other classes of vehicles, such as LDDT1s and diesel passenger vehicles. Under some scenarios, inter-class averaging would permit manufacturers to avoid development of the trap technology for LDDT2s, while avoidance is unlikely if averaging is permitted only within the LDDT2 class. However, inter-class averaging would remain available between LDDT1s and diesel passenger vehicles. This approach to averaging allows manufacturers considerable flexibility in meeting the particulate standards while insuring that the air quality goals made possible by the development of trap technology will not be compromised.

B. Nonconformance Penalty

1. Availability

Because the proposed 0.13 g/mi particulate standard for 1991 and later model year LDDT2s is technology-forcing, EPA is proposing to make NCPs available for noncompliance with that standard.

EPA promulgated regulations governing the availability of NCPs in two parts. The Phase I NCP rulemaking (50 FR 35374, August 30, 1985) established generic criteria for determining the emission standards for which NCPs will be offered, generic criteria for establishing an upper limit (an emission level above which heavy-duty vehicles or engines cannot be certified or introduced into commerce), and the penalty rate formula for determining the NCP payment. The Phase II NCP rulemaking (50 FR 53454, December 31, 1985) established specific emission standards for which NCPs were made available, the upper limits for those standards, and numerical values for the variables in the penalty rate formula for particular subclasses of engines and trucks. Among those standards for which NCPs were made available is the 1987 0.26 g/mi particulate standard applicable to LDDTs which are also heavy-duty vehicles (HDVs), i.e., those light-duty diesel trucks having a GVWR between 6,001 and 8,500 pounds. Only the heavier portion of the LDDT2 class are also HDVs, because a vehicle which exceeds 3,750 pounds LVW does not necessarily exceed 6,000 pounds GVWR. *See* section II, above.

Because this NPRM proposes to change the 1987 and later model year particulate standard for LDDTs, NCP availability, upper limits and penalty rate values needs to be reassessed for the 1987 and later heavy LDDT2s.

The Phase I NCP rulemaking established three "generic" criteria for determining the emission standards for which NCPs will be offered: the emission standard in question must become significantly more difficult to meet; substantial work must be required for compliance with the standard; and EPA must determine that a technological laggard is likely to develop. A technological laggard is manufacturer who cannot meet the particular emission standard due to technological (not economic) difficulties and who consequently might be forced out of the marketplace.

This rulemaking proposes to relax the LDDT particulate standards now applicable to 1987 through 1990 LDDT2s. Thus, the regulations making available NCPs for the 0.26 g/mi standard would be rescinded. The interim standards would not be significantly more difficult to meet than the 1986 standard of 0.60 g/mi, substantial work to meet them would not be required, and no technological laggard is likely. GM, in its amended petition, has indicated to EPA that its 8.2L engine family can meet these standards using technology currently available for production LDDTs, and EPA believes the same would be true for any other heavy LDDTs, in the market. Thus, NCPs would not be offered for the 1987 to 1990 model years.

This rulemaking proposes a 1991 LDDT2 particulate standard of 0.13 g/mi. This standard is significantly more difficult to meet than the current 1987 and later standard of 0.26 g/mi, for which NCPs have been made available. It would require advanced technology that is not yet developed, and thus, a technological laggard may develop. Accordingly, EPA believes it is appropriate to offer an NCP for 1991 and subsequent heavy LDDT2s subject to the particulate standard of 0.13 g/mi. However, NCPs would not be available for LDDT2s which are not also heavy-duty vehicles.

As noted above, an upper limit is an emission level above which heavy-duty vehicles or heavy-duty engines cannot be certified or introduced into commerce, despite the availability of NCPs. Wherer there is a previously applicable emission standard, that standard serves as the upper limit.

In the case of the proposed 1991 LDDT2 particulate standard of 0.13 g/mi, the proposed 1990 LDDT2 particulate standard of 0.45 g/mi would be the previous applicable emission standard, and thus, would be the 1991 upper limit.

2. Penalty Rates for 1991 LDDT2 Particulate Standard

For those standards for which EPA specifies that NCPs be made available (the NCP standard), EPA specifies values for the following parameters in the NCP formula for each standard: COC_{50}, COC_{90}, MC_{50}, F and FRD. These parameters are summarized below, and a complete description of the NCP formula may be found in the Phase I final rule.

COC_{50}, is an estimate of the industry-wide average incremental per engine or per vehicle cost associated with meeting the NCP standard for engines and vehicles in the NCP category. COC_{50}, generally measures the difference between the cost of complying with the NCP standard and the cost of complying with the upper emissions limit for the NCP standard; it is the sum of the manufacturer costs owner costs associated with complying with the NCP standard.

COC_{90} is EPA's best estimate of the 90th percentile incremental per engine or per vehicle cost associated with meeting the NCP standard within an NCP category. Thus, COC_{90} is estimated to represent a level such that compliance costs exceed or equal COC_{90} for only 10 percent of engines or vehicles in the NCP category. COC_{90}, like COC_{50}, includes both manufacturer and owner costs.

EPA has not been able to identify true 90th percentile compliance costs with precision. Most cost estimates are averages or expected ranges of cost. Except where more detailed analysis is feasible, the high ends of the expected cost ranges are used as a surrogate for COC_{90}.

MC_{50} is the industry-wide average marginal cost of compliance with NCP standard for engines and vehicles in the NCP category. MC_{50} is measured in dollars per gram per mile (dollars per g/mi) for light-duty trucks. As with COC_{50} and COC_{90}, MC_{50} has both a manufacturer and an owner cost component.

Most cost analyses do not estimate the marginal cost of compliance. Furthermore, it would require much more detailed knowledge of the incremental trade-off between cost and emission levels. If marginal cost estimates are not directly availlable, they may be obtained indirectly, from one of two sources. The first source compares emission levels under the previously applicable standard to emission levels under the new standard to determine the required emission reduction. The COC_{50} (industry-wide average incremental per engine cost of compliance with the NCP standard) is divided by the required emission reduction to determine the cost per unit of emissions reduction of achieving compliance. Another source occurs where costs of ownership are expected to rise due to fuel economy reductions that sometimes accompany lower emission levels. Increases in fuel consumption may be indicative of marginal costs, since manufacturers often prefer not to use control strategies which increase operating costs until other approaches have been implemented.

F is a factor used to estimate MC_{90}, the 90th percentile marginal cost of compliance with the NCP standard for engines and vehicles in the NCP category. MC_{90} represents the penalty rate for compliance levels near the standard and is equal to MC_{50} multiplied by F. In cases where no reasonable estimate of MC_{90} can be made based on existing marginal cost data, EPA uses a presumptive value of 1.2 for F.

FRD is a factor representing the percentage of the research and development (R&D) costs in relation to COC_{50}. It is used to calculate a refund to a munfacturer for the R&D portion of the NCP payments in the event that the manufacturer, subsequent to paying an NCP, certifies as a replacement for the nonconforming configuration, a configuration that is in conformance with the applicable standard and conducts a Production Compliance Audit (PCA) that results in a compliance level below the applicable standard.

The NCP Phase I final rule stated that the overall Consumer Price Index (CPI) would be used to adjust NCPs for inflation for the second and subsequent years that NCPs for the same standard are available. EPA will also use the CPI to adjust the penalty parameters developed in this rule to dollars as of January of the calendar year preceding the model year in which the NCP is first available.

The following cost values (in December 1985 dollars) are proposed for "heavy" LDDT2s subject to the 1991 and subsequent model year LDDT2 particulate standard of 0.13 g/mi:

COC_{50} = $487
COC_{90} = $743
MC_{50} = $1,948 per g/mi
F = 1.2
FRD = 0.9

The derivation of those cost values was based on a high-efficiency trap oxidizer technology and electronically controlled fuel injection system. (*See* Development of Nonconformance Penalty Rates, Docket No. A–86–20–IIA–B–2.)

IV. Impacts of the Proposal

A. Environmental Impact

EPA analysis shows that establishment of a 0.13 g/mi standard beginning in 1991 could create important environmental benefits by causing a long-term net decrease in diesel particulate emissions and thus reducing the hazards associated with particulate matter.

In the short run, the impact of the temporary relaxation of the 0.26 g/mi standard for LDDT2s would be insignificant because of the small number of vehicles in this market. By far the greater proportion of LDT vehicles are gasoline-fueled. Diesels currently compose only 6% of the LDT fleet. The short-term negative effect would in time be sharply reduced with the implementation of the more stringent particulate emissions standards beginning in 1991. EPA estimates that cumulative LDDT2 particulate emissions resulting from relaxing, then later tightening, the standard would reach the "break-even" point in the mid to late 1990s. The "break-even" point is the point at which the cumulative emissions average under the amended standards results in the emissions level that would have been expected to occur had the standard remained 0.26 g/mi throughout. EPA expects net reductions to occur once the "break-even" point is surpassed, with the magnitude of the reduction depending on the amount of diesel sales penetration of the LDT market. (*See* No. IIA–B–1.) This scenario assumes moderate growth in all LDT sales. And as mentioned previously, this emission benefit may be greater if the particulate trap technology developed for LDDT2s is transferable to lighter vehicle classes, and if EPA sets more stringent standards for those classes. If all LDDTs had to comply with the 0.13 g/mi standard beginning in 1991, it would create a net particulate emissions reduction of as much as 24,746 tons by the year 2000, a reduction of more than 25% compared to the base case of a 0.26 g/mi standard for all LDDTs from 1987 on. (*See*, No. IIA–B–1.)

Particulate emissions can cause significant environmental hazards, so that reductions in particulate emissions are beneficial. See 50 FR 10606, 10626–31 (March 15, 1985). Diesel particulate presents potential cancer risk and contributes to reductions in atmospheric visibility and soiling in urban areas. *Id.*

B. Economic Impact

To determine the economic impact of the 0.13 g/mi particulate standard, EPA looks to the analysis performed for

deriving the NCP associated with the 0.13 g/mi particulate standard for 1991 and later model year "heavy" LDDT2s. This analysis shows that COC_{50}, that is, the cost of manufacturers and owners of achieving compliance with the 0.13 g/mi particulate standard, is about $487 per vehicle. In its petition, GM has estimated that it will spend $50 million on engineering to develop an emissions control system to bring its 6.2L engine family LDDT2s into compliance with a 0.13 particulate standard by 1991. EPA estimates the average cost to manufacturers as $10 million per year, a cost which is offset somewhat by lower compliance costs.

The fact that GM proposed the 0.13 g/mi strategy raises a strong presumption that the resulting net reduction in particulate emissions will not be purchased at an unreasonable cost. Confidential business information on file with EPA's Certification Division shows that the GM 6.2L vehicles composed the bulk of the LDDT2 market for 1986, and estimates are that GM's market share will increase for the 1987 model year. As far as the Agency is aware, GM may be the only manufacturer who will be significantly affected by the change to the 0.13 g/mi standard in 1991. The Agency welcomes comments on the economic impact of this proposal on any motor vehicle manufacturers, owners, or other interested parties.

Administrative Designation

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 will have less than $100 million per year economic impact, and will not have significant adverse effects on competition, productivity, investment, employment or innovation.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA any and EPA response to those comments are available for public inspection in the docket cited at the beginning of this preamble.

Effect on Small Entities

Section 605 of the Regulatory Flexibility Act, 5 U.S.C. 605, requires that the Administrator certify that regulations do not have a significant impact on a substantial number of small entities. I certify that this regulation does not have impact on a substantial number of small entities. Few, if any, small entities market LDDT2s.

List of Subjects in 40 CFR Part 86

Administrative practice and procedures, labeling, motor vehicle pollution, reporting and record keeping requirements.

Dated: May 27, 1987.

Lee M. Thomas,

Administrator.

PART 86—[AMENDED]

For the reasons set forth in the preamble, Part 86, Subparts A and L, Chapter I of Title 40, Code of Federal Regulations, is proposed to be amended as follows:

1. The authority citation for Part 86 is revised to read as follows:

Authority: Secs. 202, 206, and 301 of the Clean Air Act, as amended, 42 U.S.C. 7521, 7525, 7601, unless otherwise noted.

Subpart A—[Amended]

2. Section 86.085–2 is proposed to be amended by revising the definitions of "Composite particulate standard" and "Production-weighted average," to read as follows:

§ 86.085–2 Definitions.

* * * * *

"Composite particulate standard" for a manufacturer which elects to average diesel light-duty vehicles and diesel light-duty trucks with a loaded vehicle weight equal to or less than 3,750 lbs (LDDT1s) together in the particulate averaging program, means that standard calculated according to the following equation and rounded to the nearest hundredth gram per mile:

$$\frac{(PROD_{LDV})(STD_{LDV}) + (PROD_{LDDT1})(STD_{LDDT1})}{(PROD_{LDV}) + (PROD_{LDDT1})} = \text{Manufacturer composite particulate standard}$$

Where:

$PROD_{LDV}$ represents the manufacturer's total light-duty vehicle production for those engine families being included in the average for a given model year.

STD_{LDV} represents the light-duty vehicle particulate standard.

$PROD^{LDDT1}$ represents the manufacturer's total diesel light-duty truck production for those engine families with a loaded vehicle weight equal to or less than 3,750 lbs which are being included in the average for a given model year.

STD_{LDDT1} represents the light-duty truck particulate standard for diesel light-duty trucks with a loaded vehicle weight equal to or less than 3,750 lbs.

* * * * *

"Production-weighted average" means the manufacturer's production-weighted average particulate emission level, for certification purposes, of all of its diesel engine families included in the particulate averaging program. It is calculated at the end of the model year by multiplying each family particulate emission limit by its respective production, summing these terms, and dividing the sum by the total production of the affected families. Those vehicles produced for sale in California or at high altitude shall each be averaged separately from those produced for sale in any other area. Diesel light-duty trucks with a loaded vehicle weight equal to or greater than 3,751 lbs (LDDT2s) shall only be averaged with other diesel light-duty trucks with a loaded vehicle weight equal to or greater than 3,751 lbs produced by that manufacturer.

* * * * *

3. Section 86.087–9 is proposed to be amended by revising paragraphs (a)(1)(iv) and by adding paragraph (d)(1)(iv), to read as follows:

§ 86.087–9 Emission standards for 1987 and later model year light-duty trucks.

(a)(1) * * *

(iv) *Particulate emissions (diesels only).* (A) For light-duty trucks up to and including 3,750 lbs loaded vehicle weight, 0.26 grams per vehicle mile (0.16 grams per vehicle kilometer).

(B) For light-duty trucks 3,751 lbs and greater loaded vehicle weight, 0.50

grams per vehicle mile (0.31 grams per vehicle kilometer).

(C) A manufacturer may elect to include all or some of its light-duty truck engine families subject to the standard of paragraph (a)(1)(iv)(A) of this section in the particulate averaging program, provided that trucks produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas. If the manufacturer elects to average together particulate emissions of light-duty trucks subject to the standard of paragraph (a)(1)(iv)(A) of this section with the particulate emissions of diesel light-duty vehicles, its composite particulate standard applies to the combined fleets of those light-duty trucks and diesel light-duty vehicles included in the average and is calculated as defined in § 86.085–2.

* * * * *

(d)(1) * * *

(iv) *Particulate emissions (diesels only).* For light-duty trucks up to and including 3,750 lbs loaded vehicle weight, 0.26 grams per vehicle mile (0.16 grams per vehicle kilometer).

* * * * *

4. Section 86.088–9 is proposed to be amended by revising paragraphs (a)(1)(iv) and (d)(1)(iv), to read as follows:

§ 86.088–9 Emission standards for 1988 and later model year light-duty trucks.

(a)(1) * * *

(iv) *Particulate emissions (diesels only).* (A) For light-duty trucks up to and including 3,750 lbs loaded vehicle weight, 0.26 grams per vehicle mile (0.16 grams per vehicle kilometer).

(B) For light-duty trucks 3,751 lbs and greater loaded vehicle weight, 0.45 grams per vehicle mile (0.28 grams per vehicle kilometer).

(C) A manufacturer may elect to include all or some of its light-duty truck engine families subject to the standard of paragraph (a)(1)(iv)(A) of this section in the particulate averaging program, provided that trucks produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas. If the manufacturer elects to average together particulate emissions of light-duty trucks subject to the standard of paragraph (a)(1)(iv)(A) of this section with the particulate emissions of diesel light-duty vehicles, its composite particulate standard applies to the combined fleets of those light-duty trucks and diesel light-duty vehicles included in the average and is calculated as defined in § 86.085–2.

* * * * *

(d)(1)

(iv) *Particulate emissions (diesels only).* For light-duty trucks up to and including 3,750 lbs loaded vehicle weight, 0.26 grams per vehicle mile (0.16 gram per vehicle kilometer).

* * * * *

5. A new § 86.091–9 is proposed to be added to read as follows:

§ 86.091–9 Emission standards for 1991 and later model year light-duty trucks.

(a)(1) The standards set forth in paragraphs (a) through (c) of this section shall apply to light-duty trucks sold for principal use at other than a designated high-altitude location. Exhaust emissions from 1991 and later model year light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 0.8 grams per vehicle mile (0.5 grams per vehicle kilometer).

(ii) *Carbon monoxide.* (A) 10 grams per vehicle mile (6.2 grams per vehicle kilometer).

(B) 0.50 percent of exhaust gas flow at curb idle (gasoline-fueled light-duty trucks only).

(iii) *Oxides of nitrogen.* (A) For light-duty trucks up to and including 3,750 lbs loaded vehicle weight, 1.2 grams per vehicle mile (0.75 grams per vehicle kilometer).

(B) For light-duty trucks 3,751 lbs and greater loaded vehicle weight, 1. 7 grams per vehicle mile (1.1. grams per vehicle kilometer).

(C) A manufacturer may elect to include all or some of its light-duty truck engine families in the NOx averaging program, provided that trucks produced for sale in California or in designated high-altitude are as may be averaged only within each of those areas. Diesel and gasoline-fueled engine families may not be averaged together. If the manufacturer elects to average together NOx emissions of light-duty trucks subject to the standards of paragraphs (a)(1)(iii)(A) and (a)(1)(iii)(B) of this section, its composite NOx standard applies to the combined fleets of light-duty trucks up to and including, and over, 3,750 lbs loaded vehicle weight included in the average and is calculated as defined in § 86.085–2.

(iv) *Particulate emissions* (diesels only). (A) for light-duty trucks up to and including 3,750 lbs loaded vehicle weight, 0.26 grams per vehicle mile (0.16 grams per vehicle kilometer).

(B) For light-duty trucks 3,751 lbs and greater loaded vehicle weight, 0.13 grams per vehicle mile (0.03 grams per vehicle kilometer).

(C) A manufaturer may elect to include all or some of its light-duty truck engine families in the particulate averaging program, provided that trucks produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas, and that light-duty trucks subject to the standard of (a)(l)(iv)(B) of this section may be averaged only with other light-duty trucks subject to the standard of paragraph (a)(l)(iv)(B) of this section. If the manufacturer elects to average together particulate emissions of light-duty trucks subject to the standard of paragraph (a)(l)(iv)(A) of this section with the particulate emissions of diesel light-duty vehicles, its composite particulate standard applies to the combined fleets of those light-duty trucks and diesel light-duty vehicles included in the average and is calculated as defined in § 86.085–2.

(2) The standards set forth in paragraph (a))(l)(i), (a)(1)(ii)(A), (a)(l)(iii), and (a)(l)(iv) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures. The standard set forth in paragraph (a)(l)(ii)(B) of this section refers to the exhaust emitted at curb idle and measured and caluclated in accordance with the procedures set forth in Subpart P of this part.

(b)(l) Fuel evaporative emissions from 1991 and later model year gasoline-fueled light-duty trucks shall not exceed: (i) *Hydrocarbons.* 2.0 grams per test. (2) The standard set forth in paragraph (b)(l) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(C) No crankcase emissions shall be discharged into the ambient atmosphere from any 1991 and late model year light-duty truck.

(d)(l) Model year 1991 and later light-duty trucks sold for principal use at a designated high—altitude location shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions:

(i) *Hydrocarbons.* 1.0 grams per vehicle mile 10.62 grams per vehicle Kilometer).

(ii) *Carbon monoxide.* (A) 14 grams per vehicle mile (8.7 grams per vehicle kilometer).

(B) 0.50 percent of exhaust gas flow at curb idle (gasoline-fueled light-duty trucks only).

(iii) *Oxides of nitrogen.* (A) For light-duty trucks up to and including 3,750 lbs loaded vehicle weight, 1.2 grams per vehicle mile (0.75 grams per vehicle kilometer).

(B) For light-duty trucks 3,751 lbs and greater loaded vehicle weight, 1.7 grams

per vehicle mile (1.1 grams per vehicle kilometer).

(iv) *Particulate emissions (diesels only).* (A) For light-duty trucks up to and including 3,750 lbs loaded vehicle weight, 0.26 grams per vehicle mile (0.16 grams per vehicle kilometer).

(B) For light-duty trucks 3,751 lbs and greater loaded vehicle weight, 0.13 grams per vehicle mile (0.08 grams per vehicle kilometer).

(2) The standards set forth in paragraphs (d)(l)(i), (d)(l)((ii)(A), (d)(l)(iii), and (d)(l)(iv) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures. The standard set forth in paragraph (d)(l)(ii)(B) of this section refers to the exhaust emitted at curb idle and measured and calculated in accordance with the procedures set forth in Subpart P of this part.

(e)(l) Fuel evaportative emissions from 1991 and later model year gasoline-fueled light-duty trucks sold for principal use at a designated high-altitude location shall not exceed 2.6 grams per test when tested under high-altitude conditions.

(2) The standard set forth in paragraph (e)(l) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(f) No crankcase emissions shall be discharged into the ambient atmosphere from any 1991 and later model year light-duty trucks sold for principal use at a designated high-altitude location.

(g)(l) Any light-duty truck that a manufacturer wishes to certify for sale at low altitude must be capable of meeting high-altitude emission standards (specified in paragraphs (d) through (f) of this section). The manufacturer may specify vehicle adjustments or modifications to allow the vehicle to meet high-altitude standards but these adjustments or modifications may not alter the vehicle's basic engine, inertia weight class, transmission configuration, and axle ratio.

(i) A manufacturer may certify unique configurations to meet the high-altitude standards but is not required to certify these vehicle configurations to meet the low-altitude standards.

(ii) Any adjustments or modifications that are recommended to be performed on vehicles to satisfy the requirements of paragraph (g)(l) of this section:

(A) Shall be capable of being effectively performed by commercial repair facilities, and

(B) Must be included in the manufacturer's application for certification.

(2) The manufacturer may exempt 1985 and later model year vehicles from compliance with the high-altitude emission standards set forth in paragraphs (d) and (e) of this section if the vehicles are not intended for sale at high altitude and if the following requirements are met. A vehicle configuration shall only be considered eligible for exemption if the requirements of either paragraph (g)(2)(i), (ii), (iii), or (iv) of this section are met.

(i) Its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle-speed ratio (N/V)) fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(A) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the gross vehicle weight (GVW) expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crankshaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(B) The product line is then defined by the equation, $N/V = C(D/W)^{-0.9}$ where the constant, C, is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graphs.

(C) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.9}$ where the constant, C is the same as that found in paragraph (g)(2)(i)(B) of this section.

(D) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(ii) Its design parameters fall within the alternate exempted range for that manufacturer that year. The alternate exempted range is determined by substituting rated horsepower (hp) for displacement (D) in the exemption procedure described in paragraph (g)(2)(i) of this section and by using the product line $N/V = C(hp/W)^{-0.9}$

(A) Rated horsepower shall be determined by using the Society of Automotive Engineers Test Procedure J 1349, or any subsequent version of that test procedure. Any of the horsepower determinants within that test procedure may be used, as long as it is used consistently throughout the manufacturer's product line in any model year.

(B) No exemptions will be allowed under paragraph (g)(2)(ii) of this section to any manufacturer that has exempted vehicle configurations as set forth in paragraph (g)(2)(i) of this section.

(iii) Its acceleration time (the time it takes a vehicle to accelerate from 0 to a speed not less than 40 miles per hour and not greater than 50 miles per hour) under high-altitude conditions is greater than the largest acceleration time under low-altitude conditions for that manufacturer for that year. The procedure to be followed in making this determination is:

(A) The manufacturer shall list the vehicle configuration and acceleration time under low-altitude conditions of that vehicle configuration which has the highest acceleration time under low-altitude conditions of all the vehicle configurations it will offer for the model year in question. The manufacturer shall also submit a description of the methodology used to make this determination.

(B) The manufacturer shall then list the vehicle configurations and acceleration times under high-altitude conditions of all those vehicle configurations which have higher acceleration times under high-altitude conditions than the highest acceleration time at low altitude identified in paragraph (g)(2)(iii)(A) of this section.

(iv) In lieu of performing the test procedure of paragraph (g)(2)(iii) of this section, its acceleration time can be estimated based on the manufacturer's engineering evaluation, in accordance with good engineering practice, to meet the exemption criteria of paragraph (g)(2)(iii) of this section.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (g)(2) of this section will be considered a violation of section 203(a)(1) of the Clean Air Act.

Subpart L—[Amended]

6. Section 86.1105–87 is proposed to be amended by removing and reserving

paragraph (a), and by revising and redesignating paragraph (c) as (d), and by adding a new paragraph (c), to read as follows:

§ 86.1105-87 Emission standards for which nonconformance penalties are available.

(a) [Reserved]

* * * * *

(c) Effective in the 1991 model year, NCPs will be available for the following emission standards:

(1) Diesel light-duty truck (rated in excess of 6,000 pounds GVWR) particulate emission standard of 0.13 grams per vehicle mile.

(i) The following values shall be used to calculate an NCP in accordance with § 86.1113-87(a):

(A) COC_{50}: $474

(B) COC_{90}: $712

(C) MC_{50}: $1,896 per gram per vehicle mile

(D) F: 1.2

(ii) The following factor shall be used to calculate the engineering and development component of the NCP in accordance with § 86.1113-87(h): 0.17.

(d) The values of COC_{50}, COC_{90} and MC_{50} in paragraph (b) of this section are expressed in December 1984 dollars. The values of COC_{50}, COC_{90}, and MC_{50} in paragraph (c) of this section are expressed in December 1985 dollars. These values shall be adjusted for inflation to dollars as of January of the calendar year preceding the model year in which the NCP is first available by using the change in the overall Consumer Price Index.

[FR Doc. 87-12565 Filed 6-3-87; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 228

[A-4-FRL-3211-1]

Ocean Dumping; Proposed Site Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate the alternative dredged material disposal site in the Atlantic Ocean offshore Morehead City, North Carolina ("the proposed site") as an EPA approved ocean dumping site for the dumping of dredged material. The proposed Morehead City site includes that part of the existing site that is greater than 3 nautical miles (nmi) from shore and an adjacent area seaward. This site is chosen so as to decrease the possibility of interference with fisheries and recreational use of the ocean. This action is necessary to provide an acceptable ocean dumping site for the current and future disposal of dredged material.

DATE: Comments must be received on or before July 6, 1987.

ADDRESSES: Send comments to:

Sally Turner, Chief, Marine Protection Section, Water Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30365.

The file supporting this proposed site designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street, SW., Washington, DC 20460.

EPA Region IV, 345 Courtland Street, NE., Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT: Christopher Provost, 404/347-2126.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On December 23, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the site is located. This proposed site designation is within Region IV and is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, 228.4) state that ocean dumping sites will be designated by promulgation in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 et seq.), and was extended on August 19, 1985 (50 FR 33338). The list established the Morehead City site as an interim site.

B. EIS Development

Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., ("NEPA") requires that Federal agencies prepare an EIS on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision-making process careful consideration of all environmental aspects of proposal actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's in connection with ocean dumping site designations such as this [39 FR 16186 (May 7, 1984)].

EPA has prepared a draft and final EIS entitled, "Environmental Impact Statement—Morehead City Ocean Dredged Material Site Designation."

On Friday February 8, 1985, a notice of availability of the Final Morehead City EIS for public review and comment was published in the **Federal Register** [48 FR 5423 (February 8, 1985)]. The public comment period on the final EIS closed March 11, 1985. Anyone desiring a copy of the EIS may obtain one from the address above.

The final EIS consists of supplemental information to the draft EIS and must be attached to the draft EIS to provide a full document.

Seven comments were received on the draft EIS and were addressed in the final EIS. Comments correcting facts were incorporated in the text and the changes noted in the final EIS. Specific comments which were not appropriately treated as text changes were responded to in § 2.02 of the final EIS.

The action discussed in the EIS is the final designation for continuing use of the ocean dredged material disposal site near Morehead City, N.C. The purpose of the proposed action is to provide an environmentally acceptable location for the ocean disposal of materials dredged from the Morehead City channel system when ocean disposal is found to be necessary for some dredged materials. The need for ocean disposal is determined on a case-by-case basis as part of the process of issuing permits for ocean disposal.

The EIS discusses the need for the action and examines ocean disposal site alternatives to the proposed action. The EIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation for continuing use and is based on one of a series of disposal site environmental studies. The environmental studies and final designation process are being conducted in accordance with the requirements of the Act, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

C. Coastal Zone Management and Endangered Species Coordination

By letter of October 18, 1984, the State of North Carolina concurred with EPA's conclusion that this site designation is consistent with the State Coastal Zone Management Plan. The National Marine Fisheries Service and the U.S. Fish and Wildlife Service have concurred with EPA's conclusion that the designation of this disposal site will not affect the

endangered species under their jurisdiction.

D. Proposed Site Designation

Morehead City is one of only two deep water ports in North Carolina. Morehead City supported shipping commerce of 3 million tons in 1980. Consequently, maintenance of this port for navigation is vital to the state and local economies.

Each year the entrance channels to Morehead City Harbor must be dredged because natural processes cause them to shoal. Approximately one million cubic yards of sediments are dredged annually from the entrance channel to the harbor and dumped in the ocean disposal site. The existing ocean dredged material disposal site has been used since 1927.

The proposed action is the permenent designation of the alternative Morehead City dredged material disposal site. The alternative site is preferable as the existing site contains areas within the 3 nmi limit where disposal could interfere with fisheries and recreational use of the ocean.

Boundary coordinates for the alternative Morehead City site are as follows:

34°38'30" N., 76°45'0" W.
34°38'30" N., 76°41'42" W.
34°38'09" N., 76°41'0" W.
34°36'0" N., 76°41'0" W.
34°36'0" N., 70°45'0" W.

E. Regulatory Requirements

Five general criteria are used in the selection and approval for continuing use of ocean disposal sites. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf and other sites that have been historically used are to be chosen. If at any time disposal operations at a site unacceptable adverse impacts, further use of the site will be restricted or terminated. The proposed site conforms to the five general criteria except for the preference for sites located off the Continental Shelf. EPA has determined, based on the information presented in the EIS, to continue to use the enlarged interim site rather than to impact another portion of the ocean floor.

The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists eleven (11) specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

EPA established these 11 factors to constitute an environmental assessment of the impact of the site for disposal. The criteria are used to make comparisons between the alternative sites and are the basis for final site selection. The characteristics of the proposed site are reviewed below in terms of these 11 factors.

1. Geographical Position, Depth of Water, Bottom Topography, and Distance From Coast [40 CFR 228.6(a)(1)]

The boundary coordinates of the site are given above. The proposed Morehead City site is that portion of the interim site which lies greater than 3 nmi from shore, and an area adjacent (to the south and east) to the interim site. The adjacent areas which were not part of the interim site are necessary for adequate disposal capacity. The proposed site has an area of approximately 8 square nmi and depths ranging from 30 to 53 feet. The bottom sediments are fine to medium grain sands with shell fragments. These bottoms have little or no slope.

2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resouces in Adult or Juvenile Phases [40 CFR 228.6(a)(2)]

Many commercially important species of fish and shellfish spawn in North Carolina offshore waters near the gulf stream, migrate to and through the coastal inlets, and grown and mature within estuarine nursery areas. The passage of organisms to and from the spawning and nursery areas can be expected to take place through the proposed site with seasonal variations. However, the migration route is not limited geographically to this area. Neither the water column effects of increased suspended solids concentrations nor the physical bottom covering effects associated with the dredged material disposal are expected to significantly affect adult or juvenile life stages as these are short term.

In addition, while net sediment transport is to the north, past disposal operations have not resulted in the transport of the sediments in sufficient quantities to impact any turtle nesting areas, or the spawning and nursery areas of the fish and shellfish species. It is unlikely that future disposal beyond the 3 nmi limit will impact those areas.

3. Location in Relation to Beaches and Other Amenity Areas [40 CFR 228.6(a)(3)]

The interim designated ocean disposal site, and the proposed site is located approximately 1.5 nmi and 3 nmi, respectively, from the beaches of Bogue and Shackleford Banks. The western end of Bogue Banks contains the Fort Macon State Historic Site as well as several beach communities. Shackleford Banks is a part of the Cape Lookout National Seashore and is uninhabited.

Past dredged material disposal within the interim designated disposal area has produced no significant adverse effects on recreation, development or other human uses of the beach areas. The proposed site is among the closest of the discussed alternative ocean disposal areas to the described beaches and can, therefore, be considered a worse case situation. At a distance of 3 nmi from shore, the proposed site is beyond the seaward limit of littoral processes for transporting sediment materials to the beach. At depths of 9 m or greater, shoreward transportation of deposited dredged materials by currents or wave activity would not be extensive. The increases in water column turbidity or suspended solids concentrations associated with the sand disposal operation are very localized to the discharge point and short term in duration. Since the sediments dredged from the Harbor are 96 to 99% fine grain sands, most of the material sinks rapidly to the bottom following release from the dredge. Accordingly, degradation of water quality at the nearby beaches as a result of past dredged material disposal has not been reported.

4. Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, if any [40 CFR 228.6(a)(4)]

All material dumped in the ocean disposal site must meet the criteria specified in EPA's Ocean Dumping Regulations (40 CFR Part 227).

Grain size analyses of sediment materials proposed for ocean disposal indicate a predominance of fine sands and shell fragments. Bioassay and bioaccumulation studies have shown that the material is not toxic to marine organisms. These materials have been disposed of in the area since 1927 with no adverse environmental effects detected.

Annually about one million cubic yards of the material are dredged from the Morehead City Harbor Channels and dumped in the ocean by hopper dredge. It is expected that this quantity of dredging will continue in the future, although these amounts could increase as commercial shipping in the area increases. The hopper dredge will continue to be used for dredging and disposal.

5. Feasibility of surveillance and monitoring [40 CFR 228.6(a)(5)]

Numerous marine science/fisheries research facilities are located near the Morehead City area and represent an available support group for site monitoring and management. The proposed site can be easily reached in a short time and the ocean depths do not present any monitoring problems. At the present time the U.S. Coast Guard is not performing surveillance at the site. However, due to the proximity of the site to shore, surveillance using shipriders or aircraft overflights would not be difficult. Environmental monitoring consisting of measures to trace the movement of the material (bathymetry, grain size analyses, chemical analyses, etc.) will continue as long as the site is used. If movement of the material appears likely to impact a known resource, analysis of the benthic community or the specific resource will be undertaken. In addition, bioassays and bioaccumulation analyses of dredged materials to be disposed using representative marine organisms will ensure that the dredged material does not adversely affect the marine biota. EPA has successfully carried out monitoring surveys of the proposed site with no difficulties. This monitoring will continue for as long as the site is used. If evidence of adverse environmental impacts is found, EPA will take the necessary steps to limit or terminate dumping at the site.

6. Dispersal, Horizontal Transport and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if any [40 CFR 228.6(a)(6)]

The sediments dredged from Morehead City Harbor are 96 to 99% fine grain or coarser sands. These materials will sink rapidly to the bottom following release from the hopper dredge. The small percentage of smaller particles will be more widely dispersed by the dynamics of the water column.

The surface and subsurface currents within Onslow Bay are highly variable in direction and magnitude. The surface drift, or surface water movements within Onslow Bay are very transient with frequent reversals in direction. The mean bottom drift of the proposed site has been found to be northerly or to the coast, with a suggestion of convergence to Cape Lookout. Current speeds in the area have been measured using surfaces and subsurfaces drogues. Speeds of 13–25 cm/sec were measured below the surface.

The site is within a highly dispersive current area and the general direction of sediment transport is to the north. While some fine grain material may be transported northward, the majority of the material will sink rapidly within the site. Past disposal operations have not resulted in the transport of the sediments in sufficient quantities to impact any beaches or other amenities as the site is beyond the seaward limit of littoral processes for transporting sediment materials to these areas.

In general while some fine-grain material may be transported northward, the majority of the material will sink rapidly within the site.

7. Existence and Effects of Current and Previous Discharges and Dumping in the Area (Including Cumulative Effects) [40 CFR 228.6(a)(7)]

The disposal of dredged materials at the interim designated site and part of the proposed alternate site has produced only minor effects, which are either localized and/or temporary. Effects include localized mounding and temporary increases in turbidity. Implied effects include the burial of benthic organisms.

The recurring use of small areas within the interim and part of the alternate interim sites have produced no persistent mounds or changes in the topography of the site. The dredged materials discharged and the disposal site sediments are both predominantly fine sands. Therefore, alterations of the substrate characteristics are minimal. The frequent moving of the hopper dredge discharge point should reduce the mounding potential. Non-motile benthic organisms and slow moving epifauna will be smothered by the discharged dredged materials. However, the ability of these organisms to recolonize in similar sediments would negate any long-term impacts on the benthic community. Increases in turbidity from the disposal of predominantly fine sand are short lived and localized to the disposal site. Barber (1983) reported no persistent sediment (turbidity) cloud associated with the discharge of the sand at the interim site.

8. Interference With Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture Areas of Special Scientific Importance and Other Legitimate Uses of the Ocean [40 CFR 228.6(a)(8)]

Extensive commercial shipping, commercial fishing, sports fishing and recreational boating activities occur within inshore areas (sounds and estuaries) and offshore ocean areas in the vicinity. The extent of the commercial fishing is evidenced in the 3,927 commercial fishing vessel licenses, distributed among 1,365 full-time vessels, 1,482 part-time vessels, and 1,080 pleasure vessels, which were issued during 1981 in Carteret County, North Carolina (NC Division of Marine Fisheries, 1983).

Quantities of harvestable fish and shell fish are present in ocean water off Morehead City, NC at all times of year. A commercial shrimp and sciaenid fishery is extensive from July through October and is concentrated within 1 to 3 nmi of shore (Brown, 1982; Street, 1983). During the winter and early spring, trawling, handlining, and fish trapping occurs offshore (Brown, 1982). Recreational sports fishing extends from the shore breakers to 50 nmi offshore (Brown, 1982).

Disposal activities within the interim ODMDS, alternate interim site, and the nearshore sites may interfere to a localized and temporary degree with the nearshore fisheries in those areas. Specifically, disposal activities at the proposed site may temporarily displace fish or shellfish from the immediate disposal area. The disposal of sand-sized dredged material will temporarily and locally change water column conditions but will not appreciably change substrate conditions. Therefore, fish, if displaced, should return to the area quickly. Mounding of sand, associated with the disposal, may serve as a fish attraction by providing bottom relief. As the important shrimp fishery is concentrated within 3 nmi from shore, the disposal site which is greater than 3 nmi from shore will have reduced potential for interferences with that fishery. Contact with the Morehead City offices of the National Marine Fisheries Service and the NC Division of Marine Fisheries has indicated that previous disposal at the interim site have produced few, if any, reports of complaints from area fisherman (Cheek, 1983; Street, 1983).

An artificial reef is located at 34° 40'N, 76° 45'W or approximately 0.7 nmi west of the northwest corner of the interim designated disposal site. No adverse impacts on the artificial reef caused by dredged material disposal within the interim site have been reported, and is not expected in the future from disposal at the proposed site.

Recreational boating is vigorously pursued in the ocean waters off Morehead City, North Carolina. Previous disposal of dredged material within the interim designated site has not interferred with this use of the ocean.

Mineral extraction, desalination, and fish and shellfish activities are not

known to presently occur in the areas considered for ocean dumping.

The proposed site is located adjacent to the maintained channel leading to the port of Morehead City. The disposal of dredged material within this site should not contribute to vessel congestion any more than that caused by the required dredging itself.

9. The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys [40 CFR 228.6(a)(9)]

Information to determine the existing water quality and ecology of the site was obtained solely from available scientific literature. The existing water quality is not affected by river discharge as there are no major river systems discharging in the area. The dissolved oxygen level ranges are at or above saturation levels. Suspended sediment concentrations are relatively low and rise only during and after major weather events. The major source of nutrients in the area is from the Gulf Stream waters. This influence is greatest in the summer months.

A distinct and predominantly diatomaceous phytoplankton population exists in the nearshore waters of North Carolina. Total cell numbers decline in a seaward direction. A seasonal cycle in phytoplankton production is pronounced and parallels the seasonal cycle of water temperature.

Copepods dominate the nearshore zooplankton population. Offshore zooplanktons are dominated by copepods and larval crustaceans. Diversity generally increases in a seaward direction; however, the numbers decrease in an offshore direction.

The benthic community is characterized by detritus feeders, filter feeders, and benthic carnivores. Abundant organisms found in similar sandy-bottoms include commensal crab, polychaete and archiannelid worms, surf clams, amphipods, and gastropods. Seasonal patterns are typically unpredictable.

Seasonal variations in abundance and occurrence of marine fish species are common, resulting from seasonal cycles of water temperature and the migratory patterns of fish species. Important fish and shellfish in the depths up to about 60 feet include penaeid shrimp, sciaenids including croakers, spot, kingfish, silver perch, sea trout, star drum, red drum, and banded drum.

The disposal of sand and coarser grade dredged material will locally and temporarily affect the water column turbidity (increase), dissolved oxygen concentrations (decrease), and nutrient concentrations (increase). The dredged material is expected to quickly settle to the bottom following release from the dredge and thus limit the turbidity, dissolved oxygen, and nutrient impacts to an area immediate to the discharge point. Rapid dilution of the water column effects can be expected considering the variable currents within the receiving waters.

The disposal of dredged material (predominantly fine sand) within the proposed site will produce minor, insignificant effects on the ecology of those near shore level bottom areas. The physical and chemical similarity between the dredged material and the disposal site sediments indicate that permanent changes in the physical and biological characteristics of the benthic environment are not likely. The disposal will bury or smother non-motile or slow moving benthic organisms and epifauna. The burial effects will be restricted to the immediate area of the discharge point and recolonization will most likely occur. The mobility of fish and shellfish and limited adverse water column effects produced by the disposal should preclude significant adverse effects on those organisms. Recent monitoring by EPA has shown no significant impacts to the ecology at the existing site from past disposal operations.

10. Potentiality for the development or recruitment of nuisance species in the disposal site [40 CFR 228.6(a)(10)]

The similarity of the dredged material to the existing sediments at the proposed site indicates that the development or recruitment of nuisance species will not occur. No evidence of nuisance species has been detected in the site vicinity after 60 years of disposal.

11. Existence at or in close proximity to the site of any significant natural or cultural features of historical importance [40 CFR 22.86(a)(11)]

The Carolina coast is scattered with numerous shipwrecks, yet no known or charted wrecks, or wrecks of known cultural or historical significance are located within the proposed disposal site area. Known wrecks are located closer to shore and disposal at the site is not expected to impact these areas.

F. Proposed Action

Dredged material disposal has occurred in portions of the proposed site for the past 60 years. Recent surveys have detected no persistent or cumulative changes in the water quality or ecology at the site. Impacts from dumping have been found to be temporary and restricted to within the site boundary. The near shore location of the proposed site facilitates surveillance and monitoring and decreases the likelihood of sediment texture/chemistry changes resulting from disposal due to the similarity between the dredged material and the sediments already at the disposal sites.

The EIS evaluated mid-shelf and shelf-break alternative sites using the general criteria and specific factors contained in the Ocean Dumping Regulations. Dredged material disposal has not occurred previously at the mid-shelf or shelf-break alterative site locations. There are significant dissimilarities between the physical and chemical characteristics of the dredged material sediments and sediments covering the mid-shelf or shelf-break regions. Altering the sediment texture and composition through the addition of finer coastal sediments may have a potential long-term adverse impact on the benthic infauna at the mid-shelf and shelf-break regions, especially in the vicinity of hard-bottom areas and shelf-break areas. These hard-botton areas are unique habitats, support several species of commercially and recreationally important finfish, and are sensitive to the effects of dredged material disposal. Thus, use of mid-shelf or shelf-break sites could result in a greater potential for interference with fishing activities. Moreover, use of offshore sites would be restricted to periods of calm weather and sea conditions because the hopper dredges cannot operate in rough seas. In addition, several proposed or active Minerals Management Service oil and gas lease sites exist in the mid-shelf and shelf-break regions.

In summary, although no site-specific surveys have been conducted at the shelf-break or mid-shelf alternative site areas, their use and geographic proximity to important commercial fishery and industrial use areas make them less suitable for disposal. In addition, the greater potential at these other sites for long-term benthic impact due to the differences in sediment texture and composition supports the designation of the sites that have historically been used.

The designation of the proposed dredged material disposal site as an EPA Approved Ocean Dumping Site is being published as proposed rulemaking. Management authority of these sites will be delegated to the Regional Administrator of EPA Region IV. Interested persons may participate in this proposed rulemaking by submitting written comments within 45

days of the date of this publication to the address given above.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at the site may commence, the Corps of Engineeers must evaluate a permit application according to EPA's ocean dumping criteria. If a Federal project is involved, the Corps must also evaluate the proposed dumping in accorance with those criteria. In either case, EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

G. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this proposal does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this proposed rule does not necessitate preparation of a Regulatory Impact Analysis.

This proposed rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: May 19, 1987.

Lee A. DeHihns, III,

Acting Regional Administrator.

In consideration of the foregoing, Subchapter H of Chapter I of Title 409 is proposed to be amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.12 is proposed to be amended by removing from paragraph (a)(3) the words and coordinates "Morehead City Harbor—Maintenance dredging hopperdredge disposal area 3 miles x 3 miles; approximate latitude and longitude; bounded north 34° 40' 00", south 34° 38' 30", east 76° 41' 00", west 76° 43' 00"." and adding paragraph (b)(31) to read as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(31) Morehead City, North Carolina, Dredged Material Disposal.

Site—Region IV

Location: 34°38' 40" N., 76° 45'0" W.; 34°38' 30" N., 76°41'42" W.; 34°38' 09" N., 76°41'0" W.; 34°36' 0" N., 76°41'0" W; 34°36' 0" N., 76°45'0" W.

Size: 8 square nautical mile.

Depth: Average 12.0 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredged material from the Morehead City Harbor, NC area. All material disposed must satisfy the requirements of the ocean dumping regulations.

[FR Doc. 87-12568 Filed 6-3-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-27, RM-5364]

Radio Broadcasting Services; Topsail Beach and Wilmington, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Wolfson Broadcasting Corporation of Wilmington, Inc. to substitute Channel 266C2 for Channel 265A at Wilmington, North Carolina, and modify its license for Station WWQQ-FM to specify the higher powered channel. Channel 266C2 can be allocated in compliance with the Commission's minimum distance separation requirements with a site restriction of 31.6 kilometers (19.6 miles) southwest to avoid a short-spacing to the construction permit of Station WPCM, Channel 266, Burlington, North Carolina, and to the application of Station WJKA for Channel 266C2 at Belhaven, North Carolina. Woolfson Broadcasting is requested to provide a showing that a site is available complying with the Commission's mileage separation requirements since the site restriction places the transmitter in an area known as the Green Swamp. Since the proposal involves an adjacent channel upgrade, the Commission will not accept other expressions of interest in use of the channel and the petitioner will not be required to demonstrate the availability of an additional Class C2 channel at Wilmington.

DATES: Comments must be filed on or before July 20, 1987, and reply comments on or before August 4, 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: Allan G. Moskowitz, Esq., Shrinsky, Weitzman & Eisen, P.C., 1120 Connecticut Avenue, NW., Suite 270, Washington, DC 20036 (Counsel to Woolfson Broadcasting).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rule Making, MM Docket No. 86-27, adopted April 17, 1987, and released May 28, 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.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-12714 Filed 6-3-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192

[Docket No. PS-95; Notice 1]

Deletion of Standards Affecting Iron and Copper Pipe and Other Materials

AGENCY: Office of Pipeline Safety (OPS).

ACTION: Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: This advance notice invites comment on the advisability of deleting specific design and construction standards that may no longer be needed for materials that have minimal usage in new gas pipelines, including cast iron (CI), ductile iron (DI), wrought steel and wrought iron pipe, electric resistance welded coiled steel tubing, well casing, tubing and drill pipe, copper pipe and bronze flanges. Deletion of these standards would not prevent the use of these materials in new or existing pipelines, subject to applicable general safety requirements. This action would significantly reduce the number of voluntary standards that are now incorporated by reference in Part 192 and the burden of keeping these references up-to-date.

DATE: Interested persons are invited to submit written comments on this advance notice by August 3, 1987. Late filed comments will be considered to the extent practicable. All persons must submit as part of their written comments all of the material that they consider relevant to any statement of fact made by them.

ADDRESS: Comments should identify the docket and notice numbers and be submitted in triplicate to Sandra Cureton, Dockets Unit, Office of Hazardous Materials Transportation, Room 8426, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. All comments and other docket material are available in Room 8426 for inspection and copying between the hours of 8:30 a.m. and 5:00 p.m. each working day.

FOR FURTHER INFORMATION CONTACT: Paul J. Cory, (202) 366-4561, regarding content of the advance notice or Docket Unit, (202) 366-3148, regarding copiers of this advance notice or other material in the docket.

SUPPLEMENTARY INFORMATION:

OPS has reviewed the editions of voluntary standards incorporated by reference in Parts 192, 193 and 195 to determine the need for updating these references to the latest editions. In this review it was noted that Part 192 referenced many standards of ANSI and ASTM relate to CI, DI, copper and other materials that may no longer be selected for use in new gas pipeline systems. These referenced standards are listed in the table below according to the material concerned and the Part 192 section that refers to the voluntary standard. If a voluntary standard appears in Appendix B of Part 192, it is a "listed specification" authorized for use in pipe manufacture under Subpart B of Part 192.

Part 192 Section	Cast Iron, Ductile Iron, Wrought Iron Pipe and Casing, Tubing and Drill Pipe
192.117; 192.557	ANSI A 21.1—1977 "Thickness Design of Cast Iron Pipe" (formerly ANSI C 101-1967) Note:—This standard has been discontinued.
192.277	ANSI A 21.11—1979 (now AWWA C-111-1985) "Rubber-Gasket Joints for Ductile Iron and Grey Iron Pressure Pipe and Fittings."
192.119; 192.557	ANSI A 21.50—1976 "Thickness Design of Ductile Iron Pipe" (revised to American Water Works Association (AWWA) C 150-1981)
192.119; 192.277; App. B	ANSI A 21.52—1976 "Ductile Iron Pipe, Centrifugally Cast in Metal Molds or Sand Lined Molds for Gas."
App. B	ASTM A 377—1979 (1984) "Standard Specifications for Cast Iron and Ductile Iron Pipe."
192.275	ANSI B 16.1—1975 CI Pipe Flanges and Flange Fittings.
192.279	ANSI B 36.10—1979 "Wrought Steel and Wrought Iron Pipe."
192.177	API Specification 5A 1979 "API Specification for Casing, Tubing, and Drill Pipe."
	Copper Pipe and Steel Tubing
App. B	ASTM A539-1979 Standard Specification for Electric Resistance Welded Coiled Steel Tubing for Gas and Fuel Oil Lines.
App. B	ASTM B42-1980 Standard Specification for Seamless Copper Pipe Standard Sizes.
App. B	ASTM B68-1960 Standard Specification for Seamless Copper Pipe, Bright Annealed.
App. B	ASTM B75-1980 Standard Specification for Seamless Copper Water Tube.
192.125, App. B	ASTM B88-1980 Standard Specification for Seamless Copper Water Tube.
App. B	ASTM B251-1976 Standard Specification for General Requirements for Wrought Seamless Copper and Copper-Alloy Tube.
	Bronze Pipe Flanges and Fittings
192.147	ANSI B16.24-1979 "Bronze Pipe Flanges and Flanged Fittings."

OPS contacted the American Gas Association (AGA), the Gas Research Institute (GRI) and seven pipeline operators who were known to have used CI, DI, and copper pipe in the past. The consensus was that gas operators normally do not construct cast iron pipelines. There were three operators who indicated that they had small quantities of DI pipe in stock which were manufactured to the currently referenced standards. They indicated they intended to use this pipe for replacement in repairing failures in CI or DI pipelines, but that DI pipe would not be used otherwise. These operators plan to make future replacements with polyethylene plastic or steel pipe, as other operators are now doing. There was one member of the AGA Operating Committee who indicated it will install DI pipe in its distribution system. All other contacts indicated that DI pipe would not be installed in gas pipelines in the forseeable future.

Similarly, there were two operators who stated that they still used copper

pipe for limited applications in service lines where they could not use polyethylene pipe because of operating pressure or temperature limitations, but they were looking for other less costly materials for use in these situations. All other operators stated they would not use copper pipe in the forseeable future.

There were no operators contacted who planned to install bronze flanges.

Two gas distribution operators pointed out that due to low sales, electric resistance welded coiled steel tubing for gas was no longer being manufactured.

Deletion of Part 192 design and construction standards that incorporate by reference voluntary standards for CI, DI copper or other little used materials would not prevent operators from using these materials for new or replacement pipelines provided they qualify them under the general requirements of § 192.53 for structural integrity and chemical compatability, § 192.103 for wall thickness, § 192.273 for joining, and the applicable requirements for Subpart G for construction. These requirements must now be followed to qualify for gas pipelines materials that are not covered by a referenced standard, such as aluminum pipe.

Therefore, OPS proposes to delete or revise Part 192 requirements for materials, design and construction that reference the listed standards for CI, DI copper pipelines and certain other materials because of the minimal use of these materials in new gas pipelines. Each of the rules set forth in the above table of referenced standards would be deleted or revised as set forth below. Deletion or revision of these Part 192 standards would minimize the number of voluntary standards incorporated by reference in Part 192 and, thus reduce the work load required to update references to the voluntary standards to the latest editions of those standards.

The following changes would be made to Part 192:

(1) Remove § 192.57(a) and (b)(2) "Cast iron and ductile iron pipe", § 192.61 "Copper pipe," § 192.117, "Design of cast iron pipe;" § 192.119, "Design of ductile iron pipe;" "§ 192.125(a) and (b), "Design of copper pipe;" § 192.75(e) "Cast iron pipe;" § 192.277(a) "Ductile iron pipe."

(2) Amend § 192.147, "Flanges and flange accessories," by removing "or ANSI B16.24," in paragraph (a).

(3) Amend § 192.177, "Additional Provisions for bottle-type holders" by removing "API 5A or" in paragraph (b)(1) and adding "or equivalent" after ASTM A 372.

(4) Amend § 192.279 "Copper pipe" by substituting performance language in place of reference to ANSI B36.10

(5) Amend § 192.557, "Uprating" by removing the reference §§ 192.117 and 192.119 in paragraph (d) introductory text, and adding in its place "determine stresses produced by internal pressure, trench loading, rolling loads, beam stresses and other bending loads."

(6) Amend Appendices A and B by removing the voluntary standards included in the above table.

Certain requirements that provide restrictions relating to materials, pipe design, joining and service lines are proposed to be retained although reference to listed standards would be deleted. These requirements are §§ 192.57(b)(1), 192.125(c) and (d), 192.275(a), (b), (c) and (d), and 192.277(b) and (c).

Requirements for operation and maintenance of CI pipelines in §192.621, §192.753 and §192.755 would be retained because they are applicable to existing CI pipelines.

To assist OPS in evaluating the need for the standards proposed to be deleted or revised we are soliciting comment with supporting reasoning from interested persons on the following questions in advance of issuing a notice of proposed rulemaking:

1. Would you install any of the following materials in a new pipeline:

a. Cast iron pipe
b. Ductile iron pipe
c. Copper pipe or tubing
d. Coiled steel tubing
e. Casing, tubing or drill pipe
f. Bronze pipe flanges or fittings

2. Deletion or revision of the subject standards will not prevent use of the affected materials in new or existing pipelines, subject to application of the general safety standards. Considering this, is there any safety justification for continuing in their present form the standards proposed to be deleted or revised?

3. Besides those listed in the table above, are there other standards in 49 CFR Parts 192, 193 or 195 that should be deleted because of the minimal use of materials involved?

Authority: 49 U.S.C. 1672; 49 CFR 1.53; Appendix A of Part 1 and Appendix A to Part 106.

Issued in Washington, DC, on June 1, 1987.

Richard L. Beam,

Director, Office of Pipeline Safety.

[FR Doc. 87-12694 Filed 6-3-87; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Proposed Endangered Status for Trillium Reliquum (Relict Trillium)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service has received a request, as provided for by section 4(b)(5) of the Endangered Species Act, for a public hearing on the Service's proposal to list *Trillium reliquum* (relict trillium) as an endangered species. This notice announces a public hearing for the proposal and reopens the comment period.

DATES: The comment period on the proposal is reopened June 4, 1987. The public hearing on the proposal will be held from 7:30 p.m. to 10:00 p.m., on Monday, June 22, 1987, in North Augusta, South Carolina. The comment period, which orignally closed on March 16, 1987, now closes July 2, 1987.

ADDRESSES: The public hearing will be held at the North Augusta Community Center, Brookside Drive, North Augusta, South Carolina. Written comments should be sent to the Field Supervisor, Asheville Field Office, Room 224, 10 Otis Street, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above field office address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Currie at the above field office address (704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

Trillium reliquum (relict trillium), a rare herbaceous member of the lily family, is known from only 10 locations—Alabama (two sites), Georgia (five sites), and South Carolina (three sites). The continued existence of this species is threatened by timber harvesting, wildfires, and development of its habitat. On January 14, 1987, the Service published in the Federal Register (52 FR 1497) a proposal to list *Trillium reliquum* as an endangered species.

Section 4(b)(5) of the Endangered Species Act requires that a public hearing on a proposed listing be held, if requested. On March 4, 1987, the Service received a letter from Mr. Clayton P. Boardman, Jr., of Augusta, Georgia, requesting a public hearing.

The Service has scheduled a public hearing on the proposal to list *Trillium reliquum* as an endangered species. the hearing will be held at the North Augusta Community Center, Bookside Drive, North Augusta, South Carolina, on June 22, 1987, from 7:30 p.m. to 10:00 p.m. Those parties wishing to make statements for the record should provide a copy of their statements to the Service at the start of the hearing. Oral statements may be limited to 5 or 10 minutes, if the number of parties present that evening necessitates some limitation. There are no limits to the length of written comments presented at the hearing or mailed to the Service. The comment period on the proposal originally closed on March 16, 1987. In order to accommodate the hearing, the Service also reopens the comment period. Written comments may now be submitted until July 2, 1987, to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Mr. Robert R. Currie, U.S. Fish and Wildlife Service, Asheville Field Office, Room 224, 100 Otis Street, Asheville, North Carolina 28801.

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine Mammals, Plants (agriculture).

Dated: May 28, 1987.

James W. Pulliam, Jr.,

Regional Director.

[FR Doc. 87–12697 Filed 6–3–87; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 52, No. 107
Thursday, June 4, 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

Forms Under Review by Office of Management and Budget

May 29, 1987.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing shoud be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer of USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Revision

• Agricultural Marketing Service
Cotton Classing, Testing, and Standards
CN–246, 247, 248, 357
Recordkeeping; On occasion
Individuals or households; Businesses or other for-profit; Small businesses or organizations; 3,400 responses; 411 hours; not applicable under 3504(h)
Elvis W. Morris, (901) 222–2921.

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 87–12691 Filed 6–3–87; 8:45 am]
BILLING CODE 3410–01–M

National Commission on Dairy Policy Advisory Committee Meeting

Pursuant to provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following committee meeting.

Name: National Commission on Dairy Policy
Time and Place:
Ft. Wayne Mariott
Ft. Wayne, Indiana
Status: Open.
Matters To Be Considered: On June 16, the Commission will hold a public hearing to receive testimony on the dairy price support program, new dairy technologies, and the influence of the program and technologies on the family farm.
Written Statements May Be Filed Before or After the Meeting With: Contact person named below.
Contact Person for More Information: Mr. Jeffrey Lyon, Assistant Director, National Commission on Dairy Policy, 1401 New York Ave., NW, Suite 1100, Washington, DC 20005, (202) 638–6222.

Signed at Washington, DC, this 29th day of May 1987.

David R. Dyer,
Executive Director, National Commission on Dairy Policy.

[FR Doc. 87–12756 Filed 6–3–87; 8:45 am]
BILLING CODE 3410–05–M

Forest Service

Eldorado National Forest, El Dorado County, CA; Intent to Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, and the County of El Dorado will participate as joint lead agencies in the preparation of a joint Environmental Impact Statement/Environmental Impact Report for the proposal to permit expansion of Sierra Ski Ranch winter sports site by Vern Sprock, owner and operator of Sierra Ski Ranch. The proposal is located on the Eldorado National Forest, Placerville Ranger District.

The environmental analysis will evaluate the proposal, which includes development of ski lifts and ski runs on National Forest lands, and base facilities including parking, day lodge, and overnight accommodations on adjoining private lands. A reasonable range of alternatives that are responsive to the issues will be explored including a no action alternative. Other alternatives will consider development designs with capacities ranging up to 7,000 persons at one time. Alternative locations for ski lifts, ski runs and support facilities will also be considered.

Several public scoping meetings were held this past fall. No additional meetings are planned; however, public scoping will continue through the Federal, State, and local agencies; and all other interested persons affected by the proposal.

The analysis is expected to take eight (8) months. The draft environmental impact statement/report is expected to be available for public review by September, 1987. The final environmental impact statement/report is expected to be completed by January 1988.

Jerald N. Hutchins, Forest Supervisor, Eldorado National Forest, Placerville, California, is the responsible official for the study.

Members of the public, State and local agencies and organizations are welcome and encouraged to participate. Questions, written comments and suggestions concerning the analysis should be sent to Robert A. Smart, Jr. District Ranger, Placerville, Ranger District, 3491 Carson Ct., Placerville, CA 95667, by June 30, 1987.

Dated: May 27, 1987.

Jerald N. Hutchins,
Forest Supervisor.

[FR Doc. 87–12649 Filed 6–3–87; 8:45 am]
BILLING CODE 3410–11–M

Natural Gas Field and Pipeline System, South Coeburn Field, Jefferson National Forest, Wise and Scott Counties, VA; Intent To Prepare an Environmental Impact Statement

Based on preliminary scoping and environmental analysis, the Department of Agriculture, Forest Service has decided to prepare an environmental impact statement for a proposal to develop a pipeline gathering system for the South Coeburn Natural Gas Field on the Jefferson National Forest.

The Jefferson National Forest Land and Resource Management Plan has been prepared. One of the management decisions in the Plan was to study further the development of a natural gas field and a pipeline gathering system on the Clinch Ranger District. The development planned on the Forest is located south of the cities of Coeburn and Norton, Virginia, in Wise and Scott Counties, Virginia.

Mineral rights on the affected lands are reserved. "Reserved" minerals are privately owned minerals underlying National Forest land. The minerals were reserved at the time the government purchased the land subject to the 1911 U.S. Secretary of Agriculture's Rules and Regulations. These rules and regulations are made a part of the deed to the United States and govern the exercise of the mineral reservation.

In 1981 the Forest Service completed an environmental assessment analyzing 65 proposed wells on over 27,000 acres of reserved mineral rights. In March, 1987, the company presented preliminary maps and operating plans for well drilling and routing of the pipeline gathering system. The company is planning to drill 24 wells for natural gas during 1987 and 1988. Eleven of these proposed wells have been addressed in the above cited assessment. To bring these wells into production, the company will also need to construct new gas mainlines, gathering systems to connect each well with the main pipeline, compressor stations and, as necessary, road access to new well sites. The company also plans to begin construction of the pipeline gathering system by January, 1988.

The primary purpose of this environmental impact statement will be to address the cumulative effects of the proposed gas main pipelines, gathering systems and associated gas wells and road construction. Also, the EIS will analyze the impacts and develop standards and guides for possible future development over the entire mineral reservation and more than 3,000 acres of Federally owned mineral tracts.

Concerns which have been identified and which need to be addressed include impacts on recreation, visual quality, wildlife, soil, water, and safety.

A range of alternatives for this development will be considered. Pipelines will vary from 8 inches in diameter to smaller sizes depending on what part of the gathering system they service. The alternatives will identify various possible routes for pipelines and roads associated with the gathering system, and methods to be used in mitigating impacts of the development.

Federal, State, and local agencies; potential developers; and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

No additional formal hearings or public meetings are planned at this time. The Jefferson National Forest has already solicited public comment on the proposed development by means of direct mail contact to interested publics, newspaper stories and District Open Houses. All comment received to date in this effort will be made part of the scoping record and used in identifying issues and alternatives for the Environmental Impact Statement.

The Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the area of the gas field development.

Thomas Hoots, Forest Supervisor, Jefferson National Forest, Roanoke, Virginia, is the responsible official.

The analysis is expected to take about six months. The draft environmental impact statement should be available for public review in August, 1987. The final environmental impact statement is scheduled to be completed in November, 1987.

Written comments and suggestions concerning the analysis should be sent to Charles Saboites, District Ranger, Clinch Ranger District, Route 3, Box 820, Wise, Virginia 24293, by July 13, 1987.

Questions about the proposed action and environmental impact statement should be directed to Don Blackburn, Lands Staff Officer, Jefferson National Forest, phone 703–982–6085.

Dated: May 29, 1987.

Thomas A. Hoots,

Forest Supervisor.

[FR Doc. 87–12700 Filed 6–3–87; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Boydsville Watershed, AR; Findings of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Boydsville Watershed, Clay County, Arkansas.

FOR FURTHER INFORMATION CONTACT: Gene Sullivan, State Conservationist, Soil Conservation Service, 5423 Federal Office Building, 700 West Capitol Avenue, Little Rock, Arkansas 72201, Telephone: (501) 378–5445.

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

The project concerns a plan for watershed protection which provides accelerated technical and financial assistance for installing land treatment measures to control erosion. Land treatment measures include the no-tillage method of crop production and terraces with underground outlets.

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

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: May 27, 1987.

Ronnie Murphy,

Acting State Conservationist.

[FR Doc. 87-12650 Filed 6-3-87; 8:45 am]

BILLING CODE 3410-16-M

Kings Creek Watershed, OH; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Kings Creek Watershed, Logan and Champaign Counties, Ohio.

FOR FURTHER INFORMATION CONTACT: Harry W. Oneth, State Conservationist, Soil Conservation Service, 200 North High Street, Columbus, Ohio 43215, telephone 614-469-6962.

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, Harry W. Oneth, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns watershed protection. The planned works of improvement include accelerated technical assistance and cost sharing for land treatment.

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

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: May 28, 1987.

Marshall D. Edens,

Assistant State Conservationist (WR).

Finding of No Significant Impact for Kings Creek Watershed, Logan and Champaign Counties, OH

Introduction

The Kings Creek Watershed is a federally assisted action authorized for planning under Pub. L. 83-566, the Watershed Protection and Flood Prevention Act. An environmental assessment was undertaken in conjunction with the development of the watershed plan. This assessment was conducted in consultation with local, State, and Federal agencies as well as with interested organizations and individuals. Data developed during the assessment are available for public review at the following location: U.S. Department of Agriculture, Soil Conservation Service, 200 North High Street, Room 522, Columbus, Ohio 43215.

Recommended Action

Proposed is the development of conservation plans that will provide for land treatment measures to be applied on farms for reduction of erosion and sedimentation. The plan consists of 500 acres of land conversion to permanent hayland, 3,700 acres of longer rotation, 8 sediment basins, 100 acres of grassed waterways, 100 grade stabilization structures, 500 acres of cover crops, 7,600 acres of conservation tillage, 400 acres of pasture and hayland planting, and 2,400 acres of contour strips.

Effect of Recommended Action

The proposed plan will protect 8,600 acres of excessively eroding cropland and save 314,400 tons/year of soil. This will maintain the soil resource base for sustained productivity.

The project will not adversely impact wildlife habitat. Some improvement may result from installation of land treatment practices and the conversion of 500 acres of severely eroding cropland to permanent hayland.

There are no threatened or endangered species in the watershed that will be affected by the project.

Protection, preservation, and recovery of cultural values is not anticipated at any of the locations where land treatment measures are planned. If cultural values are discovered during construction, the appropriate notice will be given to the Secretary of the Interior in accordance with GM 420-401. SCS will take action to protect or recover any significant cultural resources discovered during construction.

No significant adverse environmental impacts will result from installations.

Alternatives

The planned action is the most practical means of protecting the watershed and stabilizing the eroding lands. Other alternatives considered were the no project and the National Economic Development Plan.

Conclusion

The Environmental Assessment summarized above indicates that this Federal action will not cause significant local, regional, or National impacts on the environment. Therefore, based on the above findings, I have determined that an environmental impact statement for the Kings Creek Watershed Plan is nor required.

Dated: May 28, 1987.

Marshall D. Edens,

Assistant State Conservationist (WR).

In addition, technical assistance will be provided to plan resource management systems for the entire farm unit as required by current policy. Examples of practices that may be needed that are not cost shared include waste management systems, waste storage pond, waste storage structure, subsurface drain, diversion, spring development, and trough or tank. The cost to provide technical assistance for these items is included in tables 1, 4, & 6 as part of the total technical assistance.

Seventeen potential sediment basin sites were identified in the watershed. At the anticipated participation rate of 65% it is estimated that 11 basins will be built. The sites have an average drainage area of 38 acres and are all classified as hazard class "a". Dams are classified according to the potential hazard to life and property if the dam should suddenly breach or fail. Damage from failure of a class "a" dam would be limited to farm buildings, agricultural land, or township and county roads in rural or agricultural areas. Although a dam failure is not expected, there is always some remote possibility of failure. Precaution should be taken against future development within the

breach inundation area that could result in a changed hazard classification.

The sediment basins will be formed by constructing an earthfill dam (average height of 10') with a pipe spillway and perforated riser to trap sediment and allow the water to drain. A vegetated earth emergency spillway will also be provided to handle high frequency flows. The basins will be designed according to SCS Engineering Standards No. 350, Sediment Basin and No. 378, Pond.

The sediment storage capacity of the average sediment basin is estimated to be 12 years. At the end of this period, the accumulated sediment must be removed from the basin. This will be the responsibility of the respective landowner. Since the basins will not have a permanent water impoundment, it is anticipated that the sediment can be removed with conventional earth moving equipment (dozer and/or scraper) and spread on adjacent land. Annual maintenance items will include mowing and fertilizing vegetation, trash removal, and repairs to the spillway pipe.

[FR Doc. 87-12651 Filed 6-3-87; 8:45 am]

BILLING CODE 3401-16-M

Upper Mad River Watershed, OH; Finding of No Significant Impact

AGENCY: SOIL CONSERVATION SERVICE, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Mad River Watershed, Logan and Champaign Counties, Ohio.

FOR FURTHER INFORMATION CONTACT: Harry W. Oneth, State Conservationist, Soil Conservation Service, 200 North High Street, Columbus, Ohio, 43215, telephone 614-469-6962.

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, Harry W. Oneth, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns watershed protection. The planned works of improvement include accelerated technical assistance and cost sharing for land treatment.

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

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: May 28, 1987.

Marshall D. Edens,

Assistant State Conservationist (WR).

Finding of No Significant Impact for Upper Mad River Watershed, Logan and Champaign Counties, OH

Introduction

The Upper Mad River Watershed is a federally assisted action authorized for planning under Pub. L. 83-566, the Watershed Protection and Flood Prevention Act. An environmental assessment was undertaken in conjunction with the development of the watershed plan. This assessment was conducted in consultation with local, State, and Federal agencies as well as with interested organizations and individuals. Data developed during the assessment are available for public review at the following location: U.S. Department of Agriculture, Soil Conservation Service, 200 North High Street, Room 522, Columbus, Ohio 43215.

Recommended Action

Proposed is the development of conservation plans that will provide for land treatment measures to be applied on farms for reduction of erosion and sedimentation. The plan consists of 500 acres of land conversion to permanent hayland, 3,700 acres of longer rotation, 8 sediment basins, 100 acres of grassed waterways, 100 grade stabilization, structures, 500 acres of cover crops, 7,600 acres of conservation tillage, 400 acres of pasture and hayland planting, and 2,400 acres of contour strips.

Effect of Recommended Action

The proposed plan will protect 8,600 acres of excessively eroding cropland and save 314,400 tons/year of soil. This will maintain the soil resource base for sustained productivity.

The project will not adversely impact wildlife habitat. Some improvement may result from installation of land treatment practices and the conversion of 500 acres of severely eroding cropland to permanent hayland.

There are no threatened or endangered species in the watershed that will be affected by the project.

Protection, preservation, and recovery of cultural values is not anticipated at any of the locations where land treatment measures are planned. If cultural values are discovered during construction, the appropriate notice will be given to the Secretary of the Interior in accordance with GM 420-401. SCS will take action to protect or recover any significant cultural resources discovered during construction.

No significant adverse environmental impacts will result from installations.

Alternatives

The planned action is the most practical means of protecting the watershed and stabilizing the eroding lands. Other alternatives considered were the no project and the National Economic Development Plan.

Conclusion

The Environmental Assessment summarized above indicates that this Federal action will not cause significant local, regional, or national impacts on the environment. Therefore, based on the above findings, I have determined that an environmental impact statement for the Upper Mad River Watershed Plan is not required.

Dated: May 28, 1987.

Marshall D. Edens,

Assistant State Conservationist (WR).

In addition, technical assistance will be provided to plan resource management systems for the entire farm unit as required by current policy. Examples of practices that may be needed that are not cost shared include waste management systems, waste storage pond, waste storage structure, subsurface drain, diversion, spring development, and trough or tank. The cost to provide technical assistance for these items is included in tables 1, 4, and 6 as part of the total technical assistance.

Seventeen potential sediment basin sites were identified in the watershed. At the anticipated participation rate of

65% it is estimated that 11 basins will be built. The sites have an average drainage area of 38 acres and are all classified as hazard class "a". Dams are classified according to the potential hazard to life and property if the dam should suddenly breach or fail. Damage from failure of a class "a" dam would be limited to farm buildings, agricultural land, or township and county roads in rural or agricultural areas. Although a dam failure is not expected, there is always some remote possibility of failure. Precaution should be taken against future development within the breach inundation area that could result in a changed hazard classification.

The sediment basins will be formed by constructing an earthfill dam (average height of 10') with a pipe spillway and perforated riser to trap sediment and allow the water to drain. A vegetated earth emergency spillway will also be provided to handle high frequency flows. The basins will be designed according to SCS Engineering Standards No. 350, Sediment Basin and No. 378, Pond.

The sediment storage capacity of the average sediment basin is estimated to be 12 years. At the end of this period, the accumulated sediment must be removed from the basin. This will be the responsibility of the respective landowner. Since the basins will not have a permanent water impoundment, it is anticipated that the sediment can be removed with conventional earth moving equipment (dozer and/or scraper) and spread on adjacent land. Annual maintenance items will include mowing and fertilizing vegetation, trash removal, and repairs to the spillway pipe.

[FR Doc. 87-12652 Filed 6-3-87; 8:45 am]
BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Arkansas Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Arkansas Advisory Committee to the Commission will convene at 8:30 a.m. and adjourn at 3:30 p.m., on June 19, 1987, at the Camelot Hotel, Markham and Broadway, Little Rock, Arkansas. The purpose of the meeting is to develop program ideas and activities for the remainder of the fiscal year and to make plans for a series of civil rights forums in the Central Regional Division.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Acting Chairperson, Alan Patteson, Jr., or Melvin Jenkins, Director of the Central Regional Division (816) 374-5253, (TDD 816/374-5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 29, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87-12653 Filed 6-3-87; 8:45 am]
BILLING CODE 6335-01-M

Louisiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 4:00 p.m., on July 10, 1987, at the Pallas Suite Hotel, 1732 Canal Street, New Orleans, Louisiana. The purpose of the meeting is to conduct a community forum on the administration of justice for homosexual persons.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Michael R. Fontham, or Melvin Jenkins, Director of the Central Regional Division (816) 374-5253, (TDD 816/374-5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 1, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87-12654 Filed 6-3-87; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Announcement of Potential Change for U.S. Exports to Canada

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice.

SUMMARY: On May 14, 1987 the U.S. Department of Commerce, Bureau of the Census announced for 60 days public comments that the annual trade data reconciliation study with Canada (scheduled for release in June) indicates a substantial and growing undercount of exports from the United States to Canada in 1986, amounting to approximately 20 percent. This is due primarily to the non-filing of export documents with the U.S. Customs Service. A number of joint U.S./Canadian efforts are underway to address this issue (informational mailings, bilateral collection of export documents, data exchange, etc.). The annual reconciliation studies also confirm that import data are more accurate than export data. The Census Bureau is (1) using the Canadian import data as the basis for adjusting total U.S. exports for undercoverage and (2) including an aggregate export undercount estimate in our monthly trade data release (detail data would not be affected). If further study of this issue indicates that an adjustment for export undercount is feasible, the Census Bureau will introduce this concept with June data (to be released in mid-August), and restate earlier data for the first half of the year on a consistent basis.

FOR FURTHER INFORMATION CONTACT: Don L. Adams, Chief, Foreign Trade Division, Washington, DC 20233, phone (301) 763-5342.

Dated: May 29, 1987.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 87-12582 Filed 6-3-87; 8:45 am]
BILLING CODE 3510-07-M

International Trade Administration

Automated Manufacturing Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held June 16, 1987, 9:30 a.m., Herbert C. Hoover Building, Room 5230, 14th Street and Constitution Avenue, NW., Washington, DC. This meeting is called on short notice because of the need to discuss the streamline initiative in export licensing.

The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls

applicable to automated manufacturing equipment and related technology.

Agenda

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of numerically controlled machines.
4. Discussion of programmable controllers.
5. Request for certification of foreign availability.
6. TAC Committee communication.
7. Discussion of increased role of AMETAC in export cases.

Executive Session

8. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377–4217. For further information or copies of the minutes contact Betty Ferrell at 202–377–2583.

Dated: June 1, 1987.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 87–12744 Filed 6–3–87; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Anchovy Plan Development Team, Anchovy Advisory Subpanel and the Council's Scientific and Statistical Committee Subgroup will convene a public meeting, June 17, 1987, at 10 a.m., to discuss the 1987 anchovy spawning biomass, fishing quotas and research needs. The public meeting will convene at the National Marine Fisheries Service, Southwest Regional Office, Room 2005, 300 South Ferry Street, Terminal Island, CA.

For further information, contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW., First Avenue, Portland, OR 97201; telephone: (503) 221–6352.

Dated: May 29, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87–12686 Filed 6–3–87; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Marine Mammals Permit Modification Request; Loro Parque, Tenerife, Spain

Notice is hereby given that Loro Parque, Tenerife, Spain has requested a modification of Permit No. 558, issued on July 9, 1986 (51 FR 26176), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Permit No. 558 authorizes the taking of eight (8) Atlantic bottlenose dolphins (*Tursiops truncatus*) not less than 6'6" in length for public display.

The Permit Holder is requesting to take an additional Atlantic bottlenose dolphin as a replacement for an animal that was deemed unacceptable by the Permit Holder.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805 Washington, DC;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415.

Dated: May 29, 1987.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87–12754 Filed 6–3–87; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent to Grant Exclusive Patent License; Syntex, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to the Syntex, Inc., having a place of business at Palo Alto, CA, an exclusive right in the United States under the Federal government's interest in the invention below to manufacture, use, and sell diagnostic products embodied in the invention entitled "Method for Producing Fusion Proteins," U.S. Patent Application S.N. 6–765,035. The Federal government's interest in the patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of the Health and Human Services.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404. The proposed

license may be granted unless, within sixty days from the date of this published Notice, NTIS receives wittten evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted within the above specified 60-day period and should be addressed to Robert P. Auber, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing Specialist, Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 87-12693 Filed 6-3-87; 8:45 am]

BILLING CODE 3510-04-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts next scheduled meeting is Friday, June 19, 1987 at 10:00 AM in the Commission's offices at 708 Jackson Place, NW., Washington, DC 20006 to discuss various projects affecting the appearance of Washington, D.C. including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the offices (566-1066) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC May 27, 1987.

Charles H. Atherton,

Secretary.

[FR Doc. 87-12655 Filed 6-3-87; 8:45 am]

BILLING CODE 6330-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENT

Deduction in Charges of Certain Cotton Textile Products Produced or Manufactured in the Dominican Republic

June 1, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, and the President's February 20, 1986 announcement of a Special Access Program for textile products assembled in participating Caribbean Basin beneficiary countries from fabric formed and cut in the United States, pursuant to the requirements set forth in 51 FR 21208 (June 11, 1986), has issued the directive published below to the Commissioner of Customs to be effective on June 5, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On December 30, 1986 a notice was published in the **Federal Register** (51 FR 47043) announcing import restraint limits for cetain cotton textile products in Category 340, produced or manufactured in the Dominican Republic and exported during the period which began on December 1, 1986 and extends through May 31, 1987.

A further notice was published in the **Federal Register** on March 4, 1987 (52 FR 6595) which announced guaranteed access levels for properly certified textile products assembled in the Dominican Republic from fabric formed and cut in the United States, including products in Category 340.

During consultations held on March 10, 1987 between the Governments of the United States and the Dominican Republic, the United States agreed to deduct charges for shipments qualifying for guaranteed access levels which were made to designated consultation levels. It was further agreed that these goods would be charged to the corresponding guaranteed access levels.

The Government of the Dominican Republic has provided documentation to the U.S. Government establishing that the products in Category 340 were assembled exclusively from U.S. formed and cut fabric and qualified for entry under the guaranteed access level. These goods were charged to the designated consultation level because of the unavailability of proper documentation (CBI Export Declaration (Form ITA-370P)) required for entry under TSUSA 807.0010.

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to deduct 7,718 dozen from the charges made to the restraint limit established for Category 340 for the period which began on December 1, 1986 and extends through May 31,1987.

Subsequently, this same amount will be charged to the guaranteed access level established for properly certified textile products in Category 340 which are assembled in the Dominican Republic from fabric formed and cut in the United States and exported from the Dominican Republic during this same period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

June 1, 1987.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commisioner: To facilitate implementation of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of December 18, 1986 between the Governments of the United States and the Dominican Republic, I request that, effective on June 5, 1987, you deduct 7,718 dozen from the charges made to the import restraint limit established in the directive of December 23, 1986 for cotton textile products in Category 340, produced or manufactured in the Dominican Republic and expired during the period which began on December 1, 1986 and extends through May 31, 1987.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-12743 Filed 6-3-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Defense Science Board; Advisory Committee Meetings

SUMMARY: The Defense Science Board will meet in closed session on July 26 to August 7, 1987 at the Naval Ocean Systems Center, San Diego, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and

technical matters as they affect the perceived needs of the Department of Defense. At that time the Board will examine the substance, interrelationships, and the U.S. national security implications of three critical areas identified and tasked to the Board by the Secretary of Defense and Under Secretary of Defense for Acquisition. The subject areas are: Detection and Neutralization of Illegal Drugs and Terrorist Devices, Non-Nuclear Strategic Capabilities, and Technology Base Management. The period of study is anticipated to culminate in the formulation of specific recommendations to be submitted to the Secretary of Defense, via the Under Secretary of Defense for Acquisition, for his consideration in determining resource policies, short- and long-range plans, and in shaping appropriate implementing actions as they may affect the U.S. national defense posture.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 1, 1987.

[FR Doc. 87-12747 Filed 6-3-87; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, June 2, 1987; Tuesday, June 9, 1987; Tuesday, June 16, 1987; Tuesday, June 23, 1987; and Tuesday, June 30, 1987; at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 52b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the date will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, D.C. 20301.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 1, 1987.

[FR Doc. 87-12746 Filed 6-3-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 1, 1987.

The USAF Scientific Advisory Board Minuteman III Penetration Aids Study will conduct a closed meeting at Headquarters Ballistic Missile Office, San Bernadino, CA on June 22 and 23, 1987 from 8:00 a.m. to 5:00 p.m. each day.

The purpose of this meeting is to review, discuss and evaluate the effectiveness of penetration aids being developed for the Minuteman III.

This meeting concern matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-12768 Filed 6-3-87; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

June 1, 1987.

The USAF Scientific Advisory Board Minuteman III Penetration Aids Study will conduct a closed meeting at the Pentagon, Washington, DC on June 26, 1987 from 8:00 a.m. to 5:00 p.m.

The purpose of this meeting is to review, discuss and evaluate the effectiveness of penetration aids being developed for the Minuteman III.

This meeting concern matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-12769 Filed 6-3-87; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Ad Hoc Committee on Implementing Competitive Strategies; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 22-23 June 1987.

Times of Meeting: 0900-1600 hours, 22 June 1987; 0900-1500 hours, 23 June 1987.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board's Ad Hoc Committee on Implementing Competitive Strategies will meet. After extensive review of Soviet vulnerabilities, European Theater Mid-high intensity level of conflict, and U.S. strengths by mission area and combined arms, the panel will make a comparision to determine areas of greatest U.S. leverage, or advantage, at the operational level of war. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB

Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–12731 Filed 6–3–87; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Ad Hoc Subgroup for Ballistic Missile Defense Follow-On; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 24–25 June 1987.

Times of Meeting: 0830–1700 hours, each day.

Place: Lawrence Livermore National Laboratory, Livermore, CA.

Agenda: The Army Science Board Ad Hoc Subgroup for Ballistic Missile Defense Follow-On will meet for classified briefings and discussions reviewing matters that are an integral part of or are related to the issues of the study effort, i.e. update on Lawrence Livermore National Laboratory programs with emphasis on proton beam propagation. The subgroup is tasked with a comprehensive review of BMD requirements, technology, and specific critical issues impacting on program development. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–12732 Filed 6–3–87; 8:45 am]

BILLING CODE 3710–08–M

Military Traffic Management Command, Military Personal Property Claims Symposium; Open Meeting

Announcement is made of meeting of the Military Personal Property Claims Symposium. This meeting will be held on 11 June 1987 at the Stouffer Concourse Hotel, Crystal City, Arlington, Virginia, and will convene at 0830 hours and adjourn at approximately 1500 hours.

Proposed agenda: The purpose of the symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to Personal Property Traffic Management Regulation (DOD 4500.34R), and the handling of other matters of mutual interest concerning the Department of Defense Personal Property Shipment and Storage Program.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MT–PPM, at telephone number 756–1600, between 0800–1530 hours. Topics to be discussed should be received on or before 29 May 1987.

Dated: May 20, 1987.

Robert F. Waldman,

Deputy Director of Personal Property.

[FR Doc. 87–12656 Filed 6–3–87; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 22 June 1987.

Time of Meeting: 0900–1600 hours.

Place: TRADOC Analysis Command (TRAC) and Combined Arms Concepts and Developments Agency (CACDA), Fort Leavenworth, Kansas.

Agenda: The Methods and Process Subpanel of the Army Science Board Summer Study Panel for Army Force Cost Drivers will visit both TRAC and CACDA for the purpose of reviewing the process of analysis for systems and equipment development and its integration into the force structure. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S., Appendix 1, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening and portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–12692 Filed 6–3–87; 8:45am]

BILLING CODE 3710–08–M

Rules and Accessorial Services Governing the Movement of Department of Defense Freight Traffic by Rail Carrier

AGENCY: Military Traffic Management Command, DOD, Army.

ACTION: Notification of procedural changes in DOD freight rate acquisition programs.

SUMMARY: The Military Traffic Management Command (MTMC), on behalf of the Department of Defense (DOD), intends to modify the procedures used to acquire rates and charges from the commercial rail carrier industry for the movement of its freight traffic. This modification is the issuance of a rules publication designed to standardize and simplify the procurement of all rail carrier rates and services under 49 U.S.C. 10721, as well as those rates and services now exempt from regulation. This publication, MTMC Freight Traffic Rules Publication No. 10, is now available in draft form for public review and comment. A copy of this publication may be obtained by contacting HQ, Military Traffic Management Command, ATTN: MT-INN-G, Room 621, 5611 Columbia Pike, Falls Church, Virginia 22041–5050, Telephone: (202) 756–1585. Written comments concerning the proposed publication will be considered if received not later than July 20, 1987. Address comments to Commander, Military Traffic Management Command, ATTN: Negotiations Division (MT-INN-G), Room 621, 5611 Columbia Pike, Falls Church, Virginia 22041–5050.

FOR FURTHER INFORMATION CONTACT: Mr. Allen W. Kirby, HQ, Military Traffic Management Command, ATTN: MT-INN-G, 5611 Columbia Pike, Falls Church, Virginia 22041–5050, Telephone: (202) 756–1585.

SUPPLEMENTARY INFORMATION: The transportation regulatory reform legislation enacted over the past several years has deregulated both Trailer/Container on Flatcar (TOFC/COFC) and Boxcar shipments resulting in a corresponding proliferation of exempt rate publications, and a great diversity in the way carriers' rates, rules and services are expressed within those exempt publications. As a result, the standardization of rail carriers' rates and charges is essential to the formulation of a successful and manageable rate comparison program. Automation is feasible, of course, only if carriers' rates and charges are expressed and filed in a uniform manner compatible with electronic data processing.

In order to achieve this uniformity, MTMC intends to issue a series of rules publications to govern each mode of transportation handling DOD freight shipments. The rail rules publication which is now available for public review and comment, is described below:

MTMC Freight Traffic Rules Publication No. 10 (MFTRP) No. 10). This publication contains both rules and accessorial service requirements to

govern the rates and services of rail carriers doing business with DOD. It will govern the movement of all DOD shipments by rail EXCEPT (1) Foreign Military Sales Shipments, and (2) Guaranteed Traffic solicitations, unless specific reference is made in the Guaranteed Traffic solicitation itself.

This publication is designed to be used with the DOD Standard Tender of Freight Services, MT Form 364–R. A copy of the rules publication and DOD tender have been mailed to each rail carrier who has a current tender on file with MTMC.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 87–12657 Filed 6–3–87; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

National Environmental Policy Act; Record of Decision to Homeport Twenty-seven Naval Vessels at Eight Locations on the Gulf Coast of the United States

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality Regulations (40 CFR Part 1500), the U.S. Navy is making the decision to homeport twenty seven naval ships at eight locations on the Gulf Coast of the United States. Implementation on this action is to be completed in three parts as folows:

- Homeport ships comprised of an Aircraft Carrier Battle Group (CVBG) in Pensacola, Florida; Mobile, Alabama; and Pascagoula, Mississippi. A total of 11 ships including an Aircraft Carrier, Destroyers, Cruisers, Minesweepers and Frigates are to be assigned.
- Homneport ships comprised of a Battleship Surface Action Group (BBSAG) at Corpus Christi/Ingleside and Galveston, Texas and Naval Reserve Forces (NRF) ships at Galveston. A training carrier will also be assigned to Corpus Christi. A total of 10 ships are to be assigned to these two cities.
- Homeport a total of 6 support ships/craft at Lake Charles, Louisiana; Gulfport, Mississippi; and Key West, Florida.

Dredging of navigation channels or turning basins would occur at 6 of the 8 sites identified. A total of approximately 28 million cubic yards (mcy) of new material and 44 mcy of maintenance material would be dredged and disposed of over the next 50 years. Waterfront and ashore facilities would need to be constructed to support the homeport ships. The homeports would be considered permanent naval facilities.

At the beginning of planning for this strategic homeporting action, thirty seven sites were assessed according to multiple factors in their ability to homeport a BBSAG or CVBG, CV Support ships, NRF ships, or others.

Criteria used for this initial evaluation included channel length, potential for deep-draft ships (amount of dredging required), shore access, ship operations, safety constraints (land availability), availability of contract labor and services, industrial support availability, and potential for environmental impact.

Further analysis of feasible alternatives was conducted to define a preferred alternative and this announcement was made by the Secretary of Defense. Alternatives were:

- *No Action Alternative*
  No additional ships assigned to the Gulf Coast.
- *CVBG Alternatives*
  —Disperse ships to Pensacola, Mobile, and Pascagoula. (Preferred Alternative).
  —All ships and support at either Pensacola, Mobile, or Pascagoula.
- *BBSAG Alternatives*
  —Disperse ships to Corpus Christi/Ingleside and Gavleston (Preferred Alternative).
  —All ships and support at either Corpus Christi/Ingleside, or Galveston.
- *Other Strategic Homeporting*
  Either locating or not locating the proposed support ships at Lake Charles, Louisiana; Gulfport, Mississippi; or Key West, Florida.

These alternatives were also evaluated as to the ability to achieve cooridinated deployment which is important in BBSAG/CVBG strategic dispersal planning.

The Draft Environmental Impact Statement (DEIS) for this multiple action was announced in the **Federal Register**, Vol 51, No. 172 of Friday, September 5, 1986. The Final EIS appeared in Vol 52, No. 16 of Friday, January 23, 1987. During the period of review, public hearings were held at the sites identified.

Environmental impacts are projected to occur due to construction activities, dredging and dredged material disposal, and operation and maintenance of the proposed facilities. Topography and bathymetry would be altered during construction, dredging, and dredged material disposal. Existing channel alignment from the Gulf of Mexico into Pensacola Bay and inside Corpus Christi Bay could be enlarged. Turning basins and berthing areas would also be dredged at Corpus Christi, Galveston, Lake Charles, Pascagoula, Mobile, and Pensacola. During the statement review process, individual States made a strong case for the receipt of beach quality sand. The Navy shall strive to make the maximum quantities of sand available consistent with legal and budgeting constraints. Short term impacts to water quality will occur due to dredging and dredged material disposal.

Surface runoff from the proposed sites will cause a small amount of nonpoint source pollutant loading to adjacent receiving waters. Existing vegetation on portions of most of the proposed sites would be eliminated. Existing vegetation to be removed would be replaced by the proposed facilties. The value of subsequent landscaped areas for wildlife habitat would be expected to be low.

Deposition of dredged materials would impact various habitats. Upland vegetation would be covered at upland disposal sites. Some wetland areas would be affected by dredged material disposal. Offshore disposal would temporarily result in the loss of benthic habitat at Gulf disposal sites.

Some currently undeveloped areas surrounding the proposed sites would be developed for residential and commerical use. Existing upland habitat would be replaced by urban and industrial uses. Other currently develped areas would experience an increase in density along with associated problems as traffic, increased demand for services, etc.

During the period of construction (1988–1990) a miximum of 5,200 new jobs would be created resulting in annual income approaching an estimated $113 million in 1990. By 1991, when all eight proposed installations become fully operational, over 20,000 new jobs would be created, 12,000 of which would be military and civilian personnel assigned directly to the installations and the homeported ships. These new jobs could bring in about $370 million per year in new wage and salary income and should provide a welcome economic stimulus at many of the sites.

While many of the new jobs would go to people already residing in the respective areas, the new job opportunities would bring an estimated 32,500 new residents into the combined areas of impact. These include 10,750 military personnel plus their families. This influx of people would mean more school children, more utility consumption, increased need for community services (fire protection, recreational facilities, medical care etc.), and more traffic in certain areas.

Existing utility systems generally have the capacity to accommodate the increased demand or will be able to expand to provide for the expected increases. In some area schools, new classrooms would be required. Most areas would have sufficient housing stock available to provide for the expected demand for additional units to house the new population. However, in the Ingleside area in particular, a significant increase in new residential units would be needed to house the new population.

A number of comments received throughout the EIS process deal with whether or not the Navy was proposing to base ships with nuclear weapons at a particular site. Because the information is classified for national security reasons, the Navy can neither confirm nor deny the presence or absence of nuclear weapons aboard any station, ship, or aircraft.

Other issues raised included dredging and dredged material disposal, solid waste disposal from ships, and possible impacts to offshore oil and gas leasing operations. Specific issues raised and addressed by the Navy for each homeport site are as follows:

Corpus Christi/Ingleside, Texas—The environmental concern raised most often regarded potential adverse impacts associated with the expansion of Dredge Disposal Area No. 13 into the open waters of Corpus Christi Bay. Navy has responded to this concern by proposing a new upland disposal site to replace the expansion of Disposal Area No. 13. Use of this upland disposal site would minimize adverse effects which might result from the placement of dredged material in the Bay.

Other issues raised included disposal of gray water, possible effects to the Brown Pelican, and secondary impacts to the community.

Galveston, Texas—Issues of concern at the Galveston, Texas site were numerous and varied, including such topics as dredged material disposal, mitigation, alternatives analysis, fiscal impacts, threatened and endangered species, and cumulative impacts.

Lake Charles, Louisiana—No issues of consequence are believed to remain.

Pensacola, Florida—Issues of concern regarding the proposed action at Pensacola included numerous comments on the proposed dredged material disposal plan.

Mobile, Alabama—Because the detailed analysis of the Pinto Island site indicated that development of this site could not be recommended, additional alternative analyses were performed for the proposed homeporting at Mobile, Alabama. The analyses determined that the Theodore Industrial Park site was suitable for the homeporting action.

Pascagoula, Mississippi—Major issues of concern regarding the proposed action at Pascagoula, Mississippi were the causeway to Singing River Island and the development of Singing River Island. The causeway is to be provided by the City of Pascagoula for access to the site. The application for the causeway is being reviewed under U.S. Coast Guard permit regulations. Proposed revisions to the Port of Pascagoula Special Management Area Plan have been made to accommodate the Navy's development of Singing River Island.

Gulfport, Mississippi—No issues of consequence are believed to remain.

Key West, Florida—No issues of consequence are believed to remain.

Finally, in the preparation of this Record of Decision, the Navy considered comments received subsequent to the publication of the FEIS. Concerns for the most part were reminders that the Navy must mitigate as previously suggested, especially as concerned dredging impacts and impacts on individual species and ecological areas. Some commenters did request additional data; however, the Navy is of the opinion that the documentation completed did provide adequate detail on which to base a decision.

One new area of concern raised was the Hazard of Electromagnetic Radiation to Ordnance (HERO) and the likelihood that citizens and naval personnel will be adversely affected. Consideration of any HERO effects is an integral part of planning for Navy operations. Prior to facilities construction, a thorough analysis involving all prospective transmitters along with their respective antenna patterns is performed to identify safe distances from the ordnance expected to be present. Relocations are then accomplished as applicable. After installation, actual measurements are taken and arcs identified for each transmitter. Conversely, each weapon/system, ordnance assembly/handling area, access/egress route, etc., is identified and compared to the arcs previously mentioned. Again, relocations are performed where possible and/or equipment operating procedures are modified to insure compatability. All of this results in a station emission control "bill" (procedures) which insure personnel and equipment safety. Procedures are updated as equipment and/or ordnance changes are introduced into the inventory. Accordingly, it is not expected that any Navy operation, ashore or afloat, will constitute a HERO hazard to either Navy personnel or the surrounding community.

As expected with an action of this magnitude, the Navy has worked closely with Federal, State and local agencies connected with the homeporting action. That close working relationship will continue as we design, develop the homeports, and execute final actions.

Dated: May 29, 1987.

Harold L. Stoller,

CDR JAG, USN, Federal Register Liaison Officer.

[FR Doc. 87-12681 Filed 6-3-87; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Research Advisory Committee Panel on the Role of Space Based Activities in Support of Naval Warfare will meet on June 16 and 17, 1987. The meeting will be held at the Naval Intelligence Support Center, Suitland, Maryland on June 16; and the Office of Naval Research, 800 North Quincy Street, Arlington, Virginia on June 17, 1987. The meeting will commence at 8:30 A.M. and terminate at 5:30 P.M. on June 16; and commence at 8:30 A.M. and terminate at 3:30 P.M. on June 17, 1987. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to conduct a review of Soviet space activities related to naval operations, identify efforts of concern and provide suggestions for validating the utility of those efforts, prepare an independent warefare assessment of space based surveillance and targeting alternatives, and assess the potential for inexpensive reconstitution of wartime space assets. The agenda will include technical briefings and discussions related to Soviet space technology. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander T.C. Fritz, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217-5000: Telephone number (202) 696-4870.

Dated: May 29, 1987.

Harold L. Stoller, Jr.,

Commander, JAGC, U.S. Navy Federal Register Liaison Officer.

[FR Doc. 87-12684 Filed 6-3-87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

National Board of the Fund for the Improvement of Postsecondary Education

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of the meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: June 25, 1987 at 5:30 p.m. to June 27, 1987 at 12:00 p.m.

ADDRESS: Embassy Row Hotel, 2015 Massachusetts Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles H. Karelis, Director, Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, SW., Room 3100 ROB #3, Washington, DC 20202 (202-245-8091).

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under section 1001 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1135a-1). The National Board of the Fund is established to "advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education . . . on the selection of projects under consideration for support by the Fund in its competitions."

The meeting of the National Board is closed to the public. The meeting is for the purpose of reviewing and evaluating grant applications submitted to the Fund under the comprehensive Program.

The meeting of the National Board will be closed to the public from 5:30 p.m., June 25 until the conclusion of the agenda, approximately 12:00 p.m., June 27. The meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix 2) and under exemptions (4) and (6) of 5 U.S.C. 552(c) (Pub. L. 94-409). The review and discussions of the applications and the qualifications of proposed staff may disclose commercial or financial information obtained from a person and privileged or confidential or which would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

Records are kept of all Board proceedings, and are available for public inspection at the office of the Fund for the Improvement of Postsecondary Education, Room 3100, Regional Office Building #3, 7th & D Street, SW., Washington, DC 20202 from the hours of 8:00 a.m. to 4:30 p.m.

C. Ronald Kimberling,

Assistance Secretary for Postsecondary Education.

[FR Doc. 87-12648 Filed 6-3-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Idaho Operations Office Program Research and Development Announcement; Advanced Sensor Research and Development for Cement Kiln, Non-Paper Drying, and Distillation Applications

AGENCY: Department of Energy.

ACTION: Program Research and Development Announcement (PRDA) No. DE-PRO7-871D12691 for Advanced Sensor Research and Development for Cement Kiln, Non-Paper Drying, and Distillation Applications.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office, is seeking to stimulate and support Research and Development of the following unique and innovative sensors for industrial use. The expected relationship will be one of financial assistance and will be governed by the DOE Financial Assistance Rules (DOE-FAR). Categories: 1. A sensor for determining material temperature in the hottest zone of a cement kiln.

2. A sensor for determining, in real-time, the moisture content of non-paper products as they are dried. 3. A sensor for determining, in real-time, fluid composition in distillation applications.

The work will be conducted in three phases for each sensor type. In Phase 1, a laboratory study will be performed to establish the technical and economic feasibility of the proposed concept. During Phase 2, a prototypic sensor will be designed, developed, tested, and evaluated in a laboratory environment. The third and final phase will involve testing of the sensors at one or more industrial sites. Total DOE funding for Phase 1 is $300,000. DOE estimates a total of $1,000,000 will be available for Phases 2 and 3, depending upon the results of preceding phases and available DOE funds. Consideration may be given to initiating work at any phase, if a proposer can demonstrate to DOE the satisfactory completion of prior phases.

DOE is anticipating multiple, cost sharing agreements resulting from this PRDA. To be considered for award, proposals must contain a credible analysis indicating a potential national energy savings of at least 0.01 Quads per year, assuming the proposed sensor is successfully developed and implemented by industry.

DATES: The PRDA will be issued during May 1987 with proposals due approximately 45 days thereafter.

Contacts: Potential proposers desiring to receive a copy of the PRDA should provide a written request to the following address: U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, ID 83402, ATTN: D. L. HOffer, Contracts Management Division.

Issued at Idaho Falls, Idaho, on May 14, 1987.

H. Brent Clark,

Contracting Officer, Director, Contracts Management Division.

[FR Doc. 87-12771 Filed 6-3-87; 8:45 am]

BILLING CODE 6450-01-M

Idaho Operations Office, Program Research and Development Announcement; State-Team Geothermal Technical Assistance

AGENCY: Department of Energy.

ACTION: Program Research and Development Announcement (PRDA) No. DE-PR07-87ID12693 for State-Team Geothermal Technical Assistance.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office, desires to receive and consider for support, proposals from State educational institutions who desire to cost-share on state-oriented technical assistance and related activities in the areas of geothermal direct use development and moderate temperature (90°C to 150°C) wellhead electric generation systems development. The Geothermal Energy Research, Development, and Demonstration Act of 1974 provides for DOE to enter into agreements with States to perform geothermal resource analyses and technology transfer. The Congress has mandated that certain funds would be used to assist the States (the definition of "States" means the 50 States of the Union, the District of Columbia, and the territories of the United States) with significant hydrothermal resources. The total amoung of DOE funding allotted for this program is approximately $360,000. DOE expects to make one award and the DOE cost-share will not exceed $360,000. The State must cost-share a minimum of 10% of the gross amount requested. The expected contractual relationship will be a grant.

Minimum Requirements: Responses shall demonstrate that:

1. The agency is designated by the State to conduct technical activities in the development of projects as being responsible for geothermal resources within the State utilizing low and moderate temperature geothermal resources and the State has significant hydrothermal resources as defined by DOE research programs or by the U.S. Geological Survey Circulars 790 and 892.

2. The proposer must have available an extensive library of geothermal direct-use data that will be used to support the required activities.

DATES: The PRDA will be issued during June 1987 with proposals due approximately 30 days thereafter.

CONTACTS: Potential proposers desiring to receive a copy of the PRDA should provide a written request to the following address: Department of Energy, Idaho Operations Office, ATTN: Trudy A. Thorne, Contracts Management Division, 785 DOE Place, Idaho Falls, ID 83402.

Issued at Idaho Falls, Idaho, on May 18, 1987.

H. Brent Clark,

Director, Contracts Management Division.

[FR Doc. 87-12772 Filed 6-3-87; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 87-06-NG]

Bountiful Corp.; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Order Granting Blanket Authorization to Import Natural Gas From Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Bountiful Corporation (Bountiful) blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 87-06-NG authorizes Bountiful to import up to 73 Bcf over a two-year period for sale in the domestic spot market.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 27, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-12770 Filed 6-3-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER87-450-000, et al.]

Electric Rate and Corporate Regulation Filings; Interstate Power Co. et al.

June 1, 1987.

Take notice that the following filings have been made with the Commission:

1. Interstate Power Company

[Docket No. ER87-450-000]

Take notice that Interstate Power Company (IPW) on May 26, 1987, tendered for filing proposed voluntary changes in its rates and charges applicable to the following:

Rate Schedule No. 499 applicable to nineteen firm wholesale municipal customers. Jurisdictional revenues would decrease by $317,000 based on the 12 month period ending June 30, 1987.

Revised EXHIBIT "H" to the Transmission and Utilization Agreement between IPW and Cooperative Power Association. Jurisdictional revenues would decrease by $75,000 based on the 12 month period ending June 30, 1987.

A newly tariffed Municipal Wheeling Electric Tariff, Original Volume No. 3, Original Sheet No. 3 applicable to nine municipal wheeling customers. Jurisdictional revenues would decrease by $103,000 based on the 12 month period ending June 30, 1987.

IPW states that the proposed decrease scheduled for July 1, 1987 in the rates is intended to decrease revenue to a level commensurate with the level of income tax expense resulting from the Tax Reform Act of 1986. The change in cost of service has been computed in accordance with proposed Part 35.27 of the Regulations.

A copy of the appropriate portions of the filing has been served upon IPW's jurisdictional customers and the State Commissions of Iowa, Illinois and Minnesota.

Comment date: June 15, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Holyoke Water Power Company and Holyoke Power and Electric Company

[Docket No. ER84-574-004]

Take notice that on May 26, 1987, Holyoke Water Power Company and Holyoke Power and Electric Company ("Holyoke") filed amendments to the three Mt. Tom Power Contracts and related materials in response to the Commission's deficiency letter dated April 22, 1987 related to the January 16, 1987 compliance filing of Holyoke.

A copy of the filing was served on all customers under the Mt. Tom contracts, as well as all persons on the official service list in this docket.

Comment date: June 15, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Iowa Electric Light and Power Company

[Docket No. ER87-399-000]

Take notice that Iowa Electric Light and Power Company (Iowa Electric), on May 26, 1987, tendered for filing amendments to its filing of April 21, 1987, which proposed a rate for third party purchase and resale transactions. The rate applies to any party connected to Iowa Electric with service schedules providing for third party purchase and resale transactions along the Twin Cities—Iowa—St. Louis 345KV transmission line. The amendments clarify the applicability of the rate and

change the requested effective date from February 1, 1987 to June 1, 1987.

Comment date: June 15, 1987, in accordance with Standard Paragraph E at the end of this document.

4. Iowa Southern Utilities Company

[Docket No. ER87-446-000]

Take notice that on May 22, 1987, Iowa Southern Utilities Company (Iowa Southern) tendered for filing an Interconnection and Transmission Agreement dated October 24, 1986, between Iowa Southern and Northeast Missouri Electric Power Cooperative, Inc.

The Interconnection and Transmission Agreement supersedes in its entirety an existing agreement and among other things, establishes the rights and obligations of the parties, the points of delivery, maximum transmission capacity, metering procedures, power factor requirements, and rate for transmission service.

Iowa Southern requests that the filing be permitted to become effective July 31, 1987.

Comment date: June 15, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. The Kansas Power and Light Company

[Docket No. ER87-441-000]

Take notice that on May 21, 1987, The Kansas Power and Light Company (KPL) tendered for filing a newly executed renewal contract dated April 21, 1987, with the City of Clay Center, Clay Center, Kansas for wholesale service to the community. KPL states that this contract permits the City of Clay Center to receive service under rate Schedule WTU-12/83 designated Supplement No. 8 to Rate Schedule FERC No. 183. The proposed contract change provides essentially for the ten year extension of the original terms of the presently approved contract. In addition, KPL states that copies of the contract have been mailed to the City of Clay Center and the State Corporation Commission.

Comment date: June 15, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Pacific Power & Light Company, an Assumed Business Name of PacifiCorp.

[Docket No. ER87-447-000]

Take notice that Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, on May 26, 1987, tendered for filing, in accordance with Section 35.30 of the Commission's Regulations, Pacific's Revised Appendix 1 for the State of Washington and Bonneville Power Administration's (Bonneville) Determination of Average System Cost (ASC) for the state of Washington (Bonneville's Docket No. 5-A2-8601). The Revised Appendix 1 calculates the ASC for the states of Washington applicable to the exchange of power between Bonneville and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective October 2, 1986, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Washington Utilities and Transportation Commission, Olympia, Washington, and Bonneville's Direct Service Industrial Customers.

Comment date: June 15, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. The Potomac Edison Company

[Docket No. ER87-448-000]

Take notice that The Potomac Edison Company, on May 26, 1987, tendered for filing proposed changes in its FERC Electric Tariff, Original Volume No. 3. The proposed changes substitute a superseding Electric Service Agreement with the Town of Front Royal, Virginia, for the one previously in effect to add a second connection point, revise Appendix A of the Electric Service Agreement between The Potomac Edison company and the City of Hargerstown, Maryland, to change the location of a connection point, and to acknowledge formally Old Dominion Electric Cooperative as a customer. These changes are proposed to be deemed effective in accordance with the terms of the filed documents.

The changes proposed are for the purposes of updating the Agreements to reflect changes in operating conditions and updating the Commission's records.

Copies of the filing were served upon the City of Hagerstown, Maryland, the Maryland Public Service Commission, Old Dominion Electric Cooperative, Town of Front Royal, Virginia, and the Virginia State Corporation Commission.

Comment date: June 15, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of New Mexico

[Docket No. ER87-449-000]

Take notice that on May 26, 1987, Public Service Company of New Mexico (PNM) tendered for filing Amendment No. 1 to an Agreement for Wheeling Service entered into on October 23, 1974 between PNM and the Navajo Tribal Utility Authority (NTUA).

The Amendment increases the amount of capacity reserved for NTUA by PNM from 15 MW to 30 MW. The compensation for the firm transmission service is increased to $3.00/kW-mo, and NTUA is afforded certain rate modification provisions. The amendment extends the term of the Agreement for 20 years.

Copies of the filing were served upon NTUA and the New Mexico Public Service Commission.

Comment date: June 15, 1987, in accordance with Standard Paragraph E at the end of this document.

9. Southern California Edison Company

[Docket No. ER87-445-000]

Take notice that, on May 22, 1987, Southern California Edison Company ("Edison") tendered for filing Amendment No. 1 to the Edison-Banning Interruptible Transmission Service Agreement ("Agreement") designated Rate Schedule FERC No. 159, which has been executed by Edison and the City of Banning, California ("Banning").

Amendment No. 1 to the Edison-Banning Interruptible Transmission Service Agreement

The Amendment provides for an additional interruptible transmission service Point of Receipt at Edison's Vincent Substation 500 kV bus.

The Amendment is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Banning.

Comment date: June 15, 1987, in accordance with Standard Paragraph E at the end of this notice.

10. Southern Company Service, Inc.

[Docket No. ER87-443-000]

Take notice that on May 22, 1987, Southern Company Service, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company ("Southern Companies"), tendered for filing Service Schedule EP (Economic Energy Participation Schedule) to an intercharge contract between Southern Companies and Jacksonville Electric Authority ("JEA").

Service Schedule EP sets forth the terms, conditions and rates under which Southern Companies agree to transmit economic energy purchased by JEA from certain third party utilities with which Southern Companies have direct transmission interconnections. Southern Company Service, Inc.requests that the

new service schedule be allowed to become effective as soon as possible after its acceptance for filing by this Commission.

Comment date: June 15, 1987, in accordance with Standard Paragraph E at the end of this notice.

11. Southwestern Public Service Company

[Docket No. ER87-444-000]

Take notice that Southwestern Public Service Company (Southwestern) on May 22, 1987, tendered for filing an amendment to the Western Systems Power Pool (WSPP) experimental rates to include Southwestern as a member of the WSPP. Southwestern's membership was approved by the WSPP Executive Committee on May 5, 1987.

The two-year WSPP Agreement applies to experimental coordination transactions between a number of electric utility companies which own or operate electric generation and/or transmission systems that are interconnected to at least one other party to the Agreement or have contractual rights with a third party to deliver power to and receive power from another party.

The WSPP Agreement will increase the efficiency of Southwestern's interconnected power system operations to the extent of prescheduled coordinated transactions, such as economy energy transactions, unit commitment service, firm system capacity/energy sales or exchanges, and transmission service. Initial operations of this WSPP began on May 1, 1987 and the WSPP Agreement sets forth the terms and conditions to implement these power pooling services.

The Commission accepted the WSPP experimental rates with summary adjustment by Order issued March 12, 1987 in Docket No. ER87-97-001. Since the Commission has already accepted the WSPP experimental rates for filing and the WSPP began initial operations on May 1, 1987, Southwestern requests that the Commission approve the proposed amendment effective May 1, 1987.

Copies of this filing were served upon Public Utility Commission of Texas, New Mexico Public Commission, Oklahoma Corporation Commission, Kansas State Commission and the WSPP Executive Committee.

Comment date: June 15, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. UNITIL Power Corp.

[Docket No. ER87-209-000]

Take notice that on May 26, 1987, UNITIL Power Corp. ("UNITIL Power") tendered for filing amendments to an initial rate schedule for transmission service for Public Service Company of New Hampshire ("PSNH") filed on December 31, 1986.

This filing was in response to a February 27, 1987 letter from Jerry R. Milbourn requesting supplemental information and revisions to the filing.

UNITIL Power requests that the Commission waive its standard notice period and allow the amendments to become effective on October 1, 1986. UNITIL Power states that PSNH has consented to this effective date.

UNITIL Power states that a copy of this rate schedule has been mailed to PSNH at Manchester, New Hampshire, and is being filed with the New Hampshire Public Utilities Commission.

UNITIL Power further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: June 15, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Western Area Power Administration

[Docket No. EF87-5091-000]

Take notice that on May 21, 1987, the Under Secretary of the Department of Energy, by Rate Order No. WAPA-34, did confirm and approve on an interim basis, to be effective on June 1, 1987, that being the first day of June 1987 billing period, Western Area Power Administration's (Western) Power Rate Schedule BCP-F1 for the Boulder Canyon Project. The power rates will be in effect pending the Commission's approval of them, or substitute rates, on a final basis, or until superseded.

The PRS dated May 11, 1987, on which the power rates are based, indicates that the proposed rates are needed to recover the full cost of service. A brief summary comparing the proposed rates to the existing rates follows.

	Existing	Provisional rate
Capacity rate	$0.58/kW/month	$0.75/kW/month
Energy rate	2.462 mills/kWh	3.410 mills/kWh
Composite rate	3.967 mills/kWh	6.813 mills/kWh

Annual revenues for operating year 1987 (June 1, 1986 to May 31, 1987) were approximately $27.9 million while average revenues for the first five future fiscal years (October 1 to September 30) are approximately $34.2 million. It should be noted that while annual revenues would increase 22.6 percent, the composite rate would increase 71.7 percent. Annual revenues are impacted by two factors: (1) The amount of sales (kWh), and (2) the rates for such sales. Energy sales for fiscal year 1988 are projected to be 15.7 percent less than sales for operating year 1987. Therefore, the higher composite rate for 1988 results in an increase in revenue but not of the same magnitude as the rate increase because of a decrease in energy sales.

The Lower Basin Development Fund Contribution Charge which is in addition to the charges above will provide the revenues for the Lower Colorado River Basin Development Fund pursuant to section 1543(c)(2) of the Colorado River Basin Project Act as amended by the Hoover Power Plant Act of 1984. The Lower Basic Development Fund Contribution Charge is 4.5 mills/kWh to purchasers in Arizona, and 2.5 mills/kWh to purchasers in California and Nevada.

The Administrator of Western certifies that the rates are consistent with applicable law and that they are the lowest possible rates to customers consistent with sound business principles. The rate schedule is submitted by the Under Secretary for confirmation and approval on a final basis beginning June 1, 1987, through September 30, 1991, pursuant to authority vested in the Federal Energy Regulatory Commission by Amendment No. 1 to Delegation Order No. 0204-108.

Comment date: June 15, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-12739 Filed 6-3-87; 8:45 am]

BILLING CODE 6717-01-M

The McBee Co.; (Estate of W.D. McBee), et al.; Applications for Small Producer Certificates [1]

May 28, 1987.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Commission's Regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make a protest with reference to said applications should on or before June 11, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No.	Date filed	Applicant
CS72-488	[1] 4-27-87	The McBee Company (Estate of W.D. McBee), 3738 Oak Lawn Avenue, L.B. 200, Dallas, Texas 75219
CS78-329	[2] 4-27-87	Partnership of Inabnet Estate, Billy E. Bayles & N.L. Moncrief (Partnership of William M. Inabnet, Billy E. Bayles & N.L. Moncrief), c/o Viking Resources P.O. Box 2441, Monroe, Louisiana 71207
CS83-54-001	[3] 5-13-87	Joseph Wm. Foran and Foran Oil Company (Joseph Wm. Foran) Suite 158, Pecan Creek, 8340 Meadow Road, Dallas, Texas 75231
CS83-117-000	[4] 5-6-87	Associated Natural Gas, Inc. (Natural Gas Associates), P.O. Box 5660, Denver, Colorado 80217
CS87-68-000	4-24-87	Chilton Energy, 2460 Two Shell Plaza, 777 Walker Street, Houston, Texas 77002
CS87-69-000	5-4-87	Ensign Holdings Inc., Ensign Oil and Gas Inc., EOG (Louisiana) Inc., EOG (Texas) Inc., EOG (New Mexico) Inc. and Ensign Operating Co., 621 17th Street, Suite 1140, Denver, Colorado 80293
CS87-70-000	5-4-87	American Exploration Company, 4500 RepublicBank Center, 700b Louisiana, Houston, Texas 77002
CS87-71-000	5-5-87	The Plaza Petroleum Company, 8801 South Yale, Suite 290, Tulsa, Oklahoma 74137
CS87-72-000	5-8-87	B.B.L., Ltd., P.O. Box 911, Breckenridge, Texas 76024

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Footnotes:

[1] Letter dated April 24, 1987, received April 27, 1987, advising that the executors of the Estate of W.D. McBee are now the partners in ownership of The McBee Company, that these owners are M.A. McBee, William D. McBee, Jr. and Dorothy Ann McBee Buell, and requesting that the small producer certificate issued in Docket No. CS72-488 be redesignated under the name of The McBee Company.

[2] Letter dated April 24, 1987, received April 27, 1987, requesting redesignation of small producer certificate.

[3] Letter dated April 29, 1987, received May 5, 1987, as supplemented by letter dated May 6, 1987, received May 13, 1987, requesting that the small producer certificate issued in Docket No. CS83-54-000 to Joseph Wm. Foran be amended to add Foran Oil Company as certificate co-holder.

[4] Letter dated May 5, 1987, received May 6, 1987, requesting redesignation of small producer certificate.

[FR Doc. 87-12718 Filed 6-3-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP87-338-000, et al.]

Natural Gas Certificate Filings; K N Energy, Inc., et al.

Take notice that the following filings have been made with the Commission:

1. K N Energy, Inc.

[Docket No. CP87-338-000]

May 22, 1987.

Take notice that on May 6, 1987, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP87-338-000 a request purusant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon metering and appurtenant facilities installed for direct sales to three industrial customers in Nebraska under the certificate issued in Docket No. CP83-140-000, *et al.*, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

K N states that the three customers, Nebraska Farm Products, Inc., in Cozad,

Nebraska, Consolidated Blenders, Inc., in Ord, Nebraska, and Western Alfalfa Corporation in Odessa, Nebraska, have all notified K N that the subject facilities are no longer needed because the sales have been terminated. It is asserted that the three customers have no further need for natural gas service at these locations, and all three have consented to the abandonment of facilities as proposed.

Comment date: July 6, 1987, in accordance with Standard Paragraph G at the end of this notice.

2. National Gas Pipline Company of America

[Docket No. CP87-315-000]

May 26, 1987.

Take notice that on April 30, 1987, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP87-315-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity for authorization (1) to transport up to a maximum of 15,000 MMBtu per day of natural gas on an interruptible basis for Aluminum Company of America (ALCOA) and (2) to retain and operate existing facilities, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that it requests authority to provide an interruptible transportation service for ALCOA for a period of two (2) years from the date of first delivery and month to month thereafter. Applicant would provide such service pursuant to the terms and conditions contained in a Gas Transportation Agreement (Agreement) between Applicant and ALCOA dated August 15, 1986, it is stated.

Applicant proposes to transport natural gas for the account of ALCOA, an industrial end-user. The proposed end use of the gas would be for use in secondary aluminum production at ALCOA's Davenport Works located in Scott County, Iowa, it is stated.

Applicant proposes to receive natural gas for the account of ALCOA at 35 existing points of receipt identified in the Agreement.

Applicant proposes to transport the gas on a fully interruptible basis and would redeliver such volume for the account of ALCOA to Iowa Illinois Gas and Electric Company (Iowa-Illinois) at existing points of interconnection between the measurement facilities of Applicant and the facilities of Iowa-Illinois located near Davenport in Scott County, Iowa, and at Applicant's Moline Number 3 meter in Henry County, Illinois, for redelivery by Iowa-Illinois to ALCOA at its Davenport Works located in Scott County, Iowa.

In addition, Applicant states that one of its receipt points located in Nueces County, Texas, was constructed to provide transportation under section 311 of the Natural Gas Policy Act only, and was therefore non-jurisdictional Applicant now requests authorization under section 7(c) of the Natural Gas Act to retain and operate the facilities for purposes of the transportation proposed herein.

Applicant proposes to charge ALCOA for each MMBtu of gas received for transportation herein transportation rates consistent with Applicant's rate Schedule TRT-1.

In addition, Applicant proposes to redeliver gas to ALCOA less certain percentage reductions for fuel consumed and lost and unaccounted for gas or, at its option, would charge ALCOA for fuel consumed and lost and unaccounted for gas as provided for in the Agreement.

Applicant also proposes to charge ALCOA the currently effective GRI surcharge, if required.

Comments date: June 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

3. Southern Natural Gas Company

[Docket No. CP87-310-000]

May 26, 1987.

Take notice that on April 29, 1987, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-310-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Stand Energy Corporation (Stand), as agent for Bunge Edible Oil Company (Bunge), Diamond Bathurst, Inc. (Diamond Bathurst), and Rock-Tenn Company (Rock-Tenn), (collectively referred to as end-users), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on an interruptible basis the following maximum daily volumes of natural gas that the end-users have arranged to purchase from Stand: Up to 2,000 MMBtu to Bunge; up to 2,500 MMBtu to Diamond Bathurst at Atlanta; up to 2,500 MMBtu to Diamond Bathurst at Chattanooga; and up to 3,000 MMBtu to Rock-Tenn. Applicant further proposes that these transportations be authorized for terms expiring on October 31, 1988.

It is stated that Stand has agreed to sell gas to the end-users and that Stand would deliver the gas to Applicant at various specified existing receipt points on Applicant's pipeline system. It is claimed Applicant would deliver the gas the accounts of Bunge, Diamound Bathurst at Chattanooga, and Rock-Tenn to Chattanooga Gas Company (Chattanooga) at the existing interconnection between Applicant and Chattanooga known as the Chattanooga Meter Station located in Hamilton County, Tennessee, and that Applicant would redeliver for the account of Diamond Bathurst at Atlanta to Atlanta Gas Light Company (Atlanta) at the Atlanta Area Delivery Point in Dekalb County, Georgia. It is indicated Applicant would deliver an equivalent quantity of gas less 3.25 percent of the volume transported for fuel use.

Applicant proposes to charge Stand the following transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Applicant on any day to Chattanooga under any and all transportation agreements with Applicant, when added to the volumes of gas, delivered under Rate Schedule OCD of Applicant's FERC Gas Tariff on such day to Chattanooga do not exceed the daily contract demand of Chattanooga, the transportation rate would be 48.2 cents per MMBtu; and

(b) Where the aggregate of the volumes transported and redelivered by Applicant on any day to Chattanooga exceed the daily contract demand of Chattanooga, the transportation rate for the excess volumes shall be 77.6 cents per MMBtu.

(c) Where the aggregate of the volumes transported and redelivered by Applicant on any day to Atlanta under any and all transportation agreements with Applicant, when added to the volumes of gas delivered under Applicant's Rate Schedule OCD on such day to Atlanta do not exceed the daily contract demand of Atlanta, the transportation rate shall be 48.2 cents per MMBtu; and

(d) Where the aggregate of the volumes transported and redelivered by Applicant on any day to Atlanta exceed daily contract demand of Atlanta, the transportation rate for the excess volumes shall be 77.6 cents MMBtu.

In addition, Applicant proposes to collect the appropriate GRI surcharge.

Applicant states that the transportation arrangement will enable the end-users to diversify their natural gas supply sources and to obtain gas at competitive prices.

Comment date: June 16, 1987, in accordance with standard Paragraph F at the end of this notice.

4. Southern Natural Gas Company

[Docket No. CP87-319-000]

May 26, 1987.

Take notice that on April 30, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-319-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate or 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 Albion Kaolin United Catalyst, Inc. (Albion Kaolin), pursuant to an April 21, 1987, transportation agreement between Atlanta and Southern.

Southern states that it has been advised that Albion Kaolin has entered into a gas sale contract to purchase natural gas from SNG Trading, Inc., and Yankee Resources, Inc. (hereinafter collectively referred to as "Sellers"), in order to serve the natural gas requirements of its plant in Hephziabah, Georgia. In order to effectuate delivery of the gas purchased, Albion Kaolin has entered into an agreement with Atlanta dated Junuary 5, 1987, wherein Atlanta has agreed to transport through its facilities the gas purchased by Albion Kaolin that 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 greed to transport on an interruptible basis up to 1,000 MMBtu of gas per day purchased by Albion Kaolin. 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 systsm as specified in Exhibit F Part I of the Application, it is stated. Southern would redeliver to Atlanta at its Augusta Area Delivery Point, an equivalent quantity of gas less 3.23 pecent of such amount which shall be deemed to be used as compressor fuel and company-use gas (including system unaccounted-for gas lossess); 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 woud pay Southern each month for performing the transportation service rendered thereunder the following transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day of 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 with under Southern's Rate Schedule Rate Schedule OCD on such day to Atlanta exceed the daily contract demand of Atlanta, the transportation rate for the excess volumes would be 77.6 cents per MMBtu.

Southern states that it also would collect from Atlanta the GRI surcharge of 1.52 cents per Mcf or such other GRI surcharge funding which is applicable.

Southern states that the transportation arrangement would enable Albion Kaolin to diversity 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 Albion Kaolin may obtain from its supppliers.

Comment date: June 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

5. Southern Natural Gas Company

[Docket No. CP87-320-000]

May 26, 1987.

Take notice that on April 30, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-320-000 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 General Motors Corporation (General Motors), pursuant to a February 2, 1987, transportation agreement between Atlanta and Southern.

Southern states that it has been advised that General Motors has entered into a gas sales contract to purchase natural gas from Kimball Resources Inc. in order to serve the natural gas requirements of its plants in Lakewood and Doraville, Georgia. In order to effectuate delivery of the gas purchased, General Motors has entered into an agreement with Atlanta dated January 29, 1987, wherein Atlanta has agreed to transport through its facilities the gas purchased by General Motors to its plants, and in conjunction therewith, to obtain as agent for General Motors 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 9,000 MMBtu of gas per day purchased by General Motors. 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 Atlanta Area Delivery Point, 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 Atlanta, the transportation rate for the excess volumes would be 77.6 cents per MMBtu.

Southern states that it also would collect from Atlanta the GRI surcharge of 1.52 cents per Mcf or such other GRI surcharge funding which is applicable.

Southern states that the transportation arrangement would enable General Motors 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 General Motors may obtain from its suppliers.

Comment date: June 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

6. Southern Natural Gas Company

[Docket No. CP87-321-000]

May 26, 1987.

Take notice that on April 30, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-321-000 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 NutraSweet Company, (NutraSweet), pursuant to a April 28, 1987, transportation agreement between Atlanta and Southern.

Southern states that it has been advised that NutraSweet has entered into a gas sales contract to purchase natural gas from Texican Natural Gas Company, SNG Trading Inc., and Transco Energy Marketing Company (hereinafter collectively referred to as "Sellers"), in order to serve the natural gas requirements of its plant in Augusta, Georgia. In order to effectuate delivery of the gas purchased, NutraSweet has entered into an agreement with Atlanta dated December 19, 1986, wherein Atlanta has agreed to transport through its facilities the gas purchased by NutraSweet to its plant, and in conjunction therewith, to obtain as agent for NutraSweet 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 3,500 MMBtu of gas per day purchased by NutraSweet. 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 Augusta Area Delivery Point 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 for following transportation rate:

(a) Where the aggregate of the volumes tranported 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 transportaton 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 Atlanta, the transportation rate for the excess volumes would be 77.6 cents per MMBtu.

Southern states that it also would collect from Atlanta the GRI surcharge of 1.52 cents per Mcf or such other GRI surcharge finding which is applicable.

Southern states that the transportation arrangement would enable NutraSweet 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 NutraSweet may obtain from its suppliers.

Comment date: June 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

7. Southern Natural Gas Company and South Georgia Natural Gas Company

[Docket No. CP87-323-000]

May 26, 1987.

Take notice that on April 30, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, and South Georgia Natural Gas Company (South Georgia), P.O. Box 1279, Thomasville, Georgia 31792 (Applicants), filed in Docket No. CP87-323-000 an application pursuant to section 7 of the Natural Gas Act for a limited-term certificate of public conveneince and necessity with pre-granted abandonment, authorizing the transportation of natural gas for the City of Douglas, Georgia (Douglas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to transport on an interruptible basis up to 1,500 MMBtu of gas per day for Douglas, for a term expiring on October 31, 1988. Douglas is purchasing the gas from SNG Trading Inc. (SNG Trading).

Specifically, South Georgia, as agent, would cause gas to be delivered to Southern at various delivery points on its pipeline system, it is asserted. Southern, it is explained, would redeliver to South Georgia at South Georgia's Meter Station in Lee County, Alabama, an equivalent quantity of gas less 3.25 percent of such amount which would be accounted for as compressor fuel and company-use gas including system unaccounted for gas losses; less shrinkage, fuel or loss from processing; and for loss or vented gas.

It is stated that South Georgia would redeliver to Douglas at the Douglas Meter Station in Coffee County, Georgia, an equivalent quantity of gas less 0.5 percent of such amount which would be accounted for as compressor fuel and company-use gas including system unaccounted-for gas losses; less loss or vented gas.

Southern proposes to charge South Georgia each month, for the transporation service Southern provides for Douglas, the folloing transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to South Georgia under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD Rate Schedule on such day to South Georgia do not exceed the daily contract demand of South Georgia, the transportation rate would be 39.9 cents per MMBtu; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to South Georgia under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's OCD Rate Schedule on such day to South Georgia exceed the daily contract demand of South Georgia, the transportation rate for the excess volumes would be 64.9 cents per MMBtu.

In addition, Southern would collect from South Georgia the GRI surcharge, it is explained.

It is also noted that South Georgia would charge Douglas each month a transportation rate of 101.02 cents per MMBtu redelivered by South Georgia.

In addition, Douglas would reimburse South Georgia for all transportation and fuel charges and other costs, including the GRI surcharge that South Georgia pays Southern, it is explained.

Southern states that the proposed transportation arrangement would enable Douglas to diversify its natural gas supply sources and to obtain gas at competitive prices. In addition Southern states that it would obtain take-or-pay credit on the gas Douglas may obtain from its suppliers.

Comment date: June 16, 1986, in accordance with Standard Paragraph F at the end of this notice.

8. Southern Natural Gas Company

[Docket No. CP87-322-000]

May 26, 1987.

Take notice that on April 30, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP87-322-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing until October 31, 1988, the transportation of natural gas for the Scottsboro Water, Sewer and Gas Board (Scottsboro), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern requests a limited-term certificate of public convenience and necessity authorizing it to transport gas on behalf of Scottsboro in accordance with the terms and conditions of a transportation agreement between Scottsboro and Southern dated April 23, 1987, (agreement).

It is stated that subject to the receipt of all necessary governmental authorizations, Southern has agreed to transport on an interruptible basis up to 5,000 MMBtu equivalent of gas per day purchased by Scottsboro from SNG Trading Inc. (SNG). Southern requests that the Commission issue a limited-term certificate for a term expiring on October 31, 1988.

The agreement, it is said, provides that Scottsboro would cause gas to be delivered to Southern for transportation at various existing points of delivery on Southern's contiguous pipeline system as specified in Exhibit F to the Application. Southern states that it would redeliver to Scottsboro at the Scottsboro Meter Station located in Etowah County, Alabama, an equivalent quantity of gas less 3.25 percent of such amount which shall be deemed to have been 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 Scottsboro's *pro rata* share of any gas delivered for Scottsboro's account which is lost or vented for any reason.

Southern states that Scottsboro has agreed to pay Southern each month, the following transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to Scottsboro 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 Scottsboro do not exceed the daily contract demand of Scottsboro, the transportation rate would be 39.9 cents per MMBtu equivalent; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to Scottsboro 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 Scottsboro exceed the daily contract demand of Scottsboro, the transportation rate for the excess volumes would be 64.9 cents per MMBtu equivalent.

Southern states that it also would collect from Scottsboro the GRI surcharge of 1.52 cents per Mcf or such other GRI surcharge funding which is applicable.

Southern states that the transportation arrangement would enable Scottsboro to diversify its natural gas supply sources and to obtain gas at competitive prices. In addition, it is said that Southern would obtain take-or-pay relief on all volumes transported pursuant to the agreement.

Comment date: June 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

9. Tennessee Gas Pipeline Company a Division of Tennco Inc.

[Docket No. CP87-343-000]

May 26, 1987.

Take notice that on May 13, 1987, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Applicant), P.O. Box 2511, Houston, Texas 77252, filed a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) to establish a new delivery point to its existing firm sales customer The Berkshire Gas Company (Berkshire) under the authorization issued in Docket No. CP82-413-000 on September 1, 1982, pursuant to the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant states that pursuant to Berkshire's request, is has agreed to establish a new delivery point to be known as the West Pittsfield Meter Station located near Pittsfield, Berkshire County, Massachusetts. According to Applicant, the new delivery point is necessary to relieve operational constraints at the Pittsfield, Meter Station during periods of peak demand. All costs associated with the construction of the proposed new delivery point will be borne by Berkshire.

Applicant does not propose to increase or decrease the total daily and/or annual quantities it is authorized to deliver to Berkshire. Applicant asserts that the establishment of the proposed new delivery point is not prohibited by Applicant's currently effective tariff and that it has sufficient capacity to accomplish the deliveries at the proposed new delivery point without detriment or disadvantage to any of Applicant's other customers.

Comment date: July 10, 1987, in accordance with Standard Paragraph G at the end of this notice.

10. United Gas Pipe Line Company

[Docket No. CP87-346-000]

May 26, 1987.

Take notice that on May 14, 1987, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP87-346-000 an application pursuant to section 7(b)

of the Natural Gas Act for permission and approval to abandon a direct industrial sale service to Mississippi Chemical Corporation, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that it notified this customer by letter dated August 4, 1986, that its present firm sales contract would terminate September 4, 1986. United further states that continuation of the present service is not in the public interest and it requests that the Commission permit the termination of direct sale service to the extent required.

United is not requesting abandonment authority of any facilities. United states that the subject delivery facilities would be left in place to accommodate either future transportation service or new sales service if appropriate contractual arrangements can be made. United states that if such new arrangements are not made, it will file to abandon such facilities.

Comment date: June 16, 1986, in accordance with Standard Paragraph F at the end of this notice.

11. United Gas Pipe Line Company

[Docket No. CP87-344-000]

May 26, 1987.

Take notice that on May 14, 1987, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP87-344-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a direct industrial sale service to Container Corporation of America (Container Corp.), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that it notified this customer by letter dated August 4, 1986, that its present firm sales contract would terminate January 1, 1987. United further states that continuation of the present service is not in the public interest and it requests that the Commission permit the termination of direct sale service to the extent required.

United is not requesting abandonment authority of any facilities. United states that the subject delivery facilities would be left in place to accommodate either future transportation service or new sales service if appropriate contractual arrangements can be made. United states that if such new arrangements are not made, it will file to abandon such facilities.

Comment date: June 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

United Gas Pipe Line Company

[Docket No. CP87-347-000]

May 26, 1987.

Take notice that on May 14, 1987, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP87-347-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a direct industrial sale service to Reichohold Chemicals, Inc. (Reichhold), at a point near Gulfport, Mississippi, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that it notified Reichhold by letter dated August 4, 1986, that its present firm sales contract would terminate September 4, 1986. United further states that continuation of the present service is not in the public interest and it requests that the Commission permit the termination of direct sale service to the extent required.

United is not requesting abandonment authority of any facilities. United states that the subject delivery facilities would be left in place to accommodate either future transportation service or new sales service if appropriate contractual arrangements can be made. United states that if such new arrangements are not made, it will file to abandon such facilities.

Comment date: June 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

13. Williams Natural Gas Company

[Docket No. CP87-300-000]

May 26, 1987.

Take notice that on April 22, 1987, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP87-300-000 a request pursuant to §§ 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 157.212 and 157.216), for authorization to replace measuring, regulating and appurtenant facilities serving the Kansas Power and Light Company (KPL), Ellsworth town border, in Ellsworth County, Kansas, under the authorization issued in Docket No. CP82-479-000, pursuant to section 7 of the Natural Gas Act, as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG states that it seeks authorization to abandon the existing KPL Ellsworth town border setting located in Section 21, Township 15 South, Range 8 East, Ellsworth County, Kansas. WNG further states that the facilities were originally constructed in 1931, and certificated in Docket No. G-298 (4 FPC 471). WNG states that the cost to reclaim is approximately $4,330.00 with an estimated salvage value of $0.

WNG also seeks authorization to construct replacement measuring, regulating and appurtenant facilities at the site of the existing facilities. It is stated that KPL is proposing to serve a new minimum security prison through the Ellsworth setting.

WNG indicates that the size of the existing 4-inch setting and appurtenant facilites is adequate to serve the increased load; however, due to the age of the facilities it proposes to replace them with faciliites of like size. WNG further indicates the replacement will allow it to operate the proposed facilities at a higher pressure. WNG states that the current volume of natural gas through the existing facilities is 190,895 Mcf per year with a peak day requirement of 2,266 Mcf. It is further stated that the new load would add approximately 42,569 Mcf per year and 480 Mcf on a peak day for a total of 233,464 Mcf per year and 2,746 Mcf on a peak day. WNG estimates the cost of the replacement facilities to be $42,710, which would be paid from treasury cash.

WNG indicates that it makes sales to KPL under its F,C, and I rate schedules and an underlying service agreement which provides that WNG would supply all of the requirements of KPL. WNG further indicates that the total volumes to be delivered to KPL would not exceed the total volumes authorized prior to the request.

Comment date: July 10, 1987, in accordance with Standard Paragraph G at the end of this notice.

14. United Gas Pipe Line Company

[Docket No. CP87-348-000]

May 27, 1987.

Take notice that on May 14, 1987, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP87-348-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a direct industrial sale service to Reichhold/Chemicals, Inc. (Reichhold) of up to 8,000 Mcf per day for which the underlying direct sale contract has expired, all as more fully set forth in the application which is on file with the

Commission and open to public inspection.

United states that it notified this customer by letter dated August 4, 1986, that its present firm sales contract would terminate September 4, 1986. United further states that continuation of the present service is not in the public interest and it requests that the Commission permit the termination of direct sale service to the extent required.

United is not requesting abandonment authority of any facilities. United states that the subject delivery facilities would be left in place to accommodate either future transportation service or new sales service if appropriate contractural arrangements can be made. United states that if such new arrangements are not made, it will file to abandon such facilities.

Comment date: June 17, 1987, in accordance with Standard Paragraph F at the end of this notice.

15. United Gas Pipe Line Company

[Docket No. CP87-345-000]

May 27, 1987.

Take notice that on May 14, 1987, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP87-345-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a direct industrial sale service to Manville Forest Products Corporation (Manville Forest) in West Monroe, Quachita Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that it notified Manville Forest by letter dated August 4, 1986, that its present firm sales contract would be cancelled effective 7:00 a.m. on Jaunary 1, 1987. United further states that continuation of the present service is not in the public interest and it requests that the Commission permit the termination of direct sale service to the extent required.

United is not requesting abandonment authority of any facilities. United states that the subject delivery facilities would be left in place to accommodate either future transportation service or new sales service if appropriate contractual arrangements can be made. United states that if such new arrangements are not made, it will file to abandon such facilities.

Comment date: June 17, 1987, in accordance with Standard Paragraph F at the end of this notice.

16. Southern Natural Gas Company

[Docket No. CP87-342-000]

May 27, 1987.

Take notice that on May 12, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama, 35202-2563, filed in Docket No. CP87-342-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity for a term expiring on October 31, 1988, authorizing the transportation of natural gas on behalf of the Gas Board of the Town of Eden, Alabama (Eden), the City of Pell City, Alabama, (Pell City), and the Waterworks and Gas Board of the Town of Oak Ridge, Alabama (Oak Ridge), referred to collectively as "Municipalities", all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes on an interruptible basis, to transport gas on the Municipalities, in accordance with the terms and conditions of transportation agreements between each Municipality and Southern, all dated April 23, 1987. It is stated that subject to the receipt of all necessary governmental authorizations, Southern has agreed to transport on an interruptible basis up to 500 MMBTu of natural gas per day to Eden; up to 1,500 MMBTu to Pell City; and up to 1,000 to Oak Ridge. Southern states that each Municipality has acquired the right to purchase its natural gas supplies from SNG Trading Inc. (SNG Trading).

Southern states that the agreements provide that the Municipalities will cause gas to be delivered to Southern for transportation at the various existing points on Southern's contiguous pipeline system specified in Exhibit F Part 1 of the Application. It is stated that Southern will redeliver to Eden at the Town of Eden Meter Station in St. Clair County, Alabama; to Pell City at the Pell City Meter Station in St. Clair County, Alabama; and to Oak Ridge at the Town of Oak Ridge Meter Station in St. Clair County, Alabama. Southern states that 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 Municipalities' pro-rata share of any gas delivered for their respective accounts which is lost or vented for any reason.

Southern states that each Municipality has agreed to pay Southern each month a transportation rate of 64.9 cents per MMBtu of gas redelivered by Southern. Southern will also collect from the Municipalities the GRI surcharge of 1.52 cents per Mcf or any other GRI funding unit or surcharge as hereafter prescribed.

Southern states that the transportation arrangement will enable Municipalities to diversify its natural gas supply sources and to obtain gas at competitive prices. In addition, Southern will obtain take-or-pay relief on gas that Municipalities may obtain from its suppliers, it is stated.

Comment date: June 17, 1986, in accordance with Standard Paragraph F at the end of this notice.

17. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP86-517-009]

May 27, 1987.

Take notice that on May 20, 1987, Northern Natural Gas Company, Division of Enron Corp. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-517-009 a petition to amend the order issued September 29, 1986, in Docket No. CP86-517-000, to continue existing transportation service on behalf of certain interstate pipelines and end-users, until 30 days after the date Northern accepts its Order No. 436 blanket certificate in Docket No. CP86-435-000, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Northern requests authority to continue transportation for 16 services of those previously authorized by the Commission in Docket No. CP86-517-000 and additionally to continue the transportation for 7 services whose "grandfathered" status is scheduled to expire between June 30, 1987 and October 31, 1987. Northern requests authority to continue such services until 30 days after the date Northern accepts its Order No. 436 blanket certificate in Docket No. CP86-435-000. Northern is requesting continuation of services for interstate pipelines and/or end-users, Part 284 Subpart G transportation services, that it cannot initate under its interim NGPA Section 311 transportation program.

Northern further requests waiver of the tariff filing requirements of Part 154 of the Commission's Regulations as it would apply to the instant proposal.

Comment date: June 17, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

18. Southern Natural Gas Company

[Docket No. CP87-341-000]

May 27, 1987.

Take notice that on May 12, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-341-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity for a term expiring on October 31, 1988, authorizing the transportation of natural gas for Atlanta Gas Light Company (Atlanta), acting, as agent for Emory University (Emory) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes on an interruptible basis, to transport gas on behalf of Atlanta, acting as agent in arranging for the transportation of natural gas supplies for Emory, in accordance with the terms and conditions of a transportation agreement between Atlanta and Southern dated May 4, 1987. Southern states that it has been advised that Emory has entered into a gas sales contract to purchase natural gas from MidCon Marketing Corporation, SNG Trading Inc., Diamond Shamrock Offshore Partners Ltd. Partnership, and Consolidated Fuel Supply, Inc., hereinafter collectively referred to as Sellers, in order to serve the natural gas requirements of its facilities which include a hospital as well as university residences in Atlanta, Georgia. It is stated that in order to effectuate delivery of the gas purchased, Emory has entered into an agreement with Atlanta dated January 7, 1987, wherein Atlanta has agreed to transport through its facilities the gas purchased by Emory to its facilities, and in conjunction therewith, to obtain as agent for Emory the transportation of said gas through Southern's pipeline system.

Subject to the receipt of all necessary governmental authorizations, Southern states that it has agreed to transport on an interruptible basis up to 5,000 MMBtu of gas per day purchased by Emory. Southern requests that the Commission issue a limited-term certificate for a term expiring October 31, 1988.

Southern states that the agreement provides that Atlanta will cause gas to be delivered to Southern for transportation at various existing points of delivery on Southern's contiguous pipeline system as specified in Exhibit F Part I to the Application. It is stated that Southern will redeliver to Atlanta at its Atlanta Area Delivery Point, 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 prorata share of any gas delivered for Atlanta's account which is lost or vented for any reason.

Southern states that Atlanta has agreed to pay Southern each month, the following transportation rates:

(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 Atlanta, the transportation rate for the excess volumes would be 77.6 cents per MMBtu.

In addition, Southern proposes to collect the appropriate GRI surcharge.

Southern states that the transportation arrangement will enable Emory to diversify its natural gas supply sources and to obtain gas at competitive prices. In addition, Southern will obtain take-or-pay relief on gas that Emory may obtain from its suppliers, it is stated.

Comment date: June 17, 1987, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor,, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-12740 Filed 6-3-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-352-000]

Gas Transport, Inc.; Request Under Blanket Authorization

May 28, 1987.

Take notice that on May 15, 1987, Gas Transport, Inc. (Gas Transport), 109 North Broad Street, Lancaster, Ohio 43132, filed in Docket No. CP87-352-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to transport natural gas on behalf of Borg-Warner Chemicals, Inc. (Borg-Warner) under the authorization

issued in Docket No. CP86-291-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Gas Tranport states that, pursuant to a transportation agreement dated January 30, 1987, it proposes to transport natural gas on behalf of Borg-Warner from a receipt point at Rainbow Station, Ohio, or other points of connection with Columbia Gas Transmission Corporation to the delivery point at the Parkersburg, West Virginia interconnection with Hope Gas, Inc., who would make final delivery to Borg-Warner. Gas Transport further states that the maximum daily and annual quantities would be 2,000 MMBtus and 730,000 MMBtu, respectively. Gas Transport states that service under Section 284.223(a) commenced March 12, 1987.

Any person or the Commission's staff may, within 45 days after 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. 87-12741 Filed 6-3-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP86-97-008]

Natural Gas Pipeline Company of America; Changes in FERC Gas Tariff

May 29, 1987.

Take notice that on May 22, 1987, Natural Gas Pipeline Company of America (Natural) tendered for filing certain tariff sheets to its FERC Gas Tariff in the above-referenced dockets. The tariff sheets are listed on Appendices A and B to the filing.

Natural states that the tariff sheets were submitted in compliance with Commission orders issued May 8, 1987, at Docket Nos. RP86-97-000 and RP85-150-000. The tariff sheets filed in compliance with Docket No. RP86-97-000 set out the rates and provisions of Rate Schedule TRT-1 (a Transitional Transportation Service). The tariff sheets filed in compliance with Docket No. RP85-150-000 set out the settlement base rates approved in Natural's Stipulation and Agreement at that same docket.

Natural respectfully requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective on their appropriate effective dates.

A copy of the filing was mailed to Natural's jurisdictional customers, interested state regulatory agencies, and all parties set out on the official service list at Docket Nos. RP86-97-000 and RP85-150-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before June 8, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-12716 Filed 6-3-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT87-10-000]

Northwest Pipeline Corp.; Change in FERC Gas Tariff

May 29, 1987.

Take notice that on May 21, 1987, Northwest Pipeline Corporation ("Northwest") submitted for filing, to be a part of its FERC Gas Tariff, Original Volume No. 2, the following tariff sheets.

Original Volume No. 2

Sixth Revised Sheet No. 1
First Revised Sheet No. 1-A
First Revised Sheet No. 1-B
Sixth Revised Sheet No. 1-C
Third Revised Sheet No. 1-D
First Revised Sheet No. 136
First Revised Sheet No. 258
Third Revised Sheet No. 321
First Revised Sheet No. 419
Seventh Revised Sheet No. 473
First Revised Sheet No. 497
First Revised Sheet No. 541
First Revised Sheet No. 759
First Revised Sheet No. 787
First Revised Sheet No. 804
Second Revised Sheet No. 11154
Third Revised Sheet No. 1509
Second Revised Sheet No. 1594
Second Revised Sheet No. 1609
Second Revised Sheet No. 1610

Sixth Revised Sheet No. 1 through Third Revised Sheet No. 1-D are tendered to update the table of contents for Northwest's Original Volume No. 2 to a current status. First Revised Sheet No. 136 through Second Revised Sheet No. 1594 are tendered to reflect a change in customer names, while Second Revised Sheet Nos. 1609 and 1610 are submitted to correct spelling errors.

Northwest requests an effective date of June 22, 1987, for each of the respective tariff sheets which date is 30 days from the date of filing.

A copy of this filing has been mailed to the appropriate customers affected by this filing including Mountain Fuel Resources, Inc., ANR Pipeline Company, Williams Natural Gas Company, Chevron Chemical Company, CP National Corporation and Sunterra Gas Gathering Company.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with Rules 211 or 214 of the Commission's rules of practice and procedure. All such motions or protests should be filed on or before June 8, 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 Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-12717 Filed 6-3-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP87-331-000]

Southwest Gas Corp.; Request Under Blanket Authorization

May 29, 1987.

Take notice that on May 11, 1987, Southwest Gas Corporation (Southwest), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP87-331-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to construct and operate a high pressure mainline sales tap and appurtenant facilities to enable the sale and delivery of natural gas to the Johnson Lane residential area in

Douglas County, Nevada, an existing residential area not presently served by Southwest, under the certificate issued in Docket No. CP84–739–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southwest states that under the authorization issued in Docket No. CP84–739–000, Southwest was permitted to utilize the prior notice procedure of § 157.205 of the Commission's Regulations in connection with requests for authority to install and operate sales taps on its northern Nevada jurisdictional system to serve retail customers which are not being served by Southwest at any other location. Pursuant to such authorization, Southwest proposes to establish a sales tap to be located in Section 31, Township 14, North, Range 20 East, MDB&M, Douglas County, Nevada. Southwest states that the tap would be used to provide up to 350 Mcf of natural gas per day for Priority 1 use by the Johnson Lane residential area, consisting of approximately 750 residential customers, which presently depends on propane for its fuel use. It is estimated that the cost of the tap would be approximately $24,561.

Southwest further states that service to Johnson Lane would be rendered under the regulatory authority of the Public Service Commission of Nevada (PSCN) and in accordance with Southwest's rate schedules on file with the PSCN. Southwest asserts that it has sufficient capacity available to provide for the proposed deliveries without any detriment or disadvantage to any of its existing customers, and that the relatively small volumes anticipated to be delivered to Johnson Lane will not affect Southwest's ability to serve its existing customers.

Any person or the Commission's staff may, within 45 days after 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. 87–12742 Filed 6–3–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT87–11–000]

Texas Eastern Transmission Corp.; Filing of Service Agreements

May 29, 1987.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on May 22, 1987 submitted for filing with the Commission, six copies each of the Service Agreements under the applicable firm sales rate schedule between Texas Eastern, as Seller, and those companies individually as Buyer, identified in Appendix A attached hereto;[1] and six copies each of the Service Agreements under Texas Eastern's interruptible sales Rate Schedule I between Texas Eastern, as Seller, and those companies individually, as Buyer, identified in Appendix B attached hereto.

These new Service Agreements proposed for filing herein make no substantive change in the terms and conditons, or otherwise, currently provided for in the existing Service Agreements between Texas Eastern and those companies individually, as Buyer, listed in Appendices A and B. Rather, they are being filed for the sole purpose of having a separate firm sales Service Agreement and a separate interruptible sales Service Agreement for each of those companies. It is the intent of Texas Eastern that these superseding Service Agreements will continue to be treated as qualifying or not qualifying as "eligible firm sales Service Agreements" based upon the status of the Service Agreements being superseded. Further, by way of clarification at the request of certain of Texas Eastern Buyers directly affected by this filing, Texas Eastern states that paragraph three of Article III and in particular the last sentence of paragraph three of Article III is not intended to constitute a waiver by any such Buyers of rights which said Buyers may have under statutes other than the Natural Gas Act to protest or oppose tariff filings made by Texas Eastern.

The proposed effective date of the Service Agreements identified on the attached Appendices A and B is April 14, 1987, the date of separation, from the existing Service Agreement for each company listed in Appendices A and B, of the interruptible sales rate schedule from the firm sales rate schedule.

A copy of this filing has been served on the affected parties.

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. All such motions or protests should be filed on or before 6–8–87. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–12719 Filed 6–3–87; 8:45 am]

BILLING CODE 6717–01–M

[1] Appendices A and B are attached to the Service Agreements and are available at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 1000, Washington, DC 20426.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3212–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that EPA has forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The ICRs that follow are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Patricia Minami, (202) 382–2712 (FTS 382–2712) or Jackie Rivers, (202) 382–2740 (FTS 382–2740).

Office of Air and Radiation

Title: New Source Performance Standards for the Petroleum Refinery Industry (EPA ICR # 0983). (This is a revision of a currently approved collection).

Abstract: Petroleum refineries must notify EPA of construction; of modification, startup, shutdown, and

malfunction; and of the results of each performance test. The refineries must also record and report specific data pertaining to the monitoring of volatile organic compound (VOC) emissions as well as equipment leaks and other potential emission sources. EPA has reduced the annual burden from 45,728 to 1405 hours due primarily to the completion of initial startup requirements of most sources. States and/or EPA use this data to ensure compliance with the standards, to target inspections, and to use as enforcement evidence.

Respondents: Owners and operators of petroleum refineries.

Frequency: Periodic excess emission reports, semi-annual reports of equipment leaks, and two-year record retention.

Estimated Annual Burden: 1405 hours.

Agency PRA Clearance Requests Completed by OMB

EPA ICR # 0232; Lead Additive Report for Refineries, Importers, and Manufacturing Facility or Site; was approved 5/11/87 (OMB # 2060–0066; expires 5/31/90).

EPA ICR # 0309, Fuel Additive Manufacturer Notification, was extended on 5/18/87 (OMB # 2080–0014; expires 10/31/87).

EPA ICR # 0865, EPA Performance Audit Program for Evaluation of Ambient and Source Air Measurements, was approved 5/11/87 (OMB # 2080–0006; expires 5/31/90).

Send comments on the above abstract(s) to:

Patricia Minami, PM–223, U.S. Environmental Protection Agency, Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460

and

Nicholas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, 726 Jackson Place, NW., Washington, DC 20503

Dated: May 28, 1987.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 87–12726 Filed 6–3–87; 8:45 am]

BILLING CODE 6560–50–M

[ECAO–R–140; FRL–3212–8]

Workshop on Acid Aerosols Issue Paper; Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a workshop to be held by EPA's Environmental Criteria and Assessment Office, Office of Health and Environmental Assessment, at the Radisson Plaza Hotel in Raleigh, North Carolina. The workshop will focus on peer review of a draft issue paper prepared as a state of the art assessment of the health effects and aerometrics of acid aerosols.

DATES: The workshop will begin on Wednesday, June 10, 1987, and end on Friday, June 12, 1987. Each day's session will last from 8:30 a.m. to 5:00 p.m. Members of the public are invited to attend as observers.

FOR FURTHER INFORMATION CONTACT: Dr. Nick Hajjar of Dynamac at (301) 468–2500, extension 439. He will confirm seating for those planning to attend the workshop..

SUPPLEMENTARY INFORMATION: The Clean Air Act As Amended, 42 U.S.C. 7401 *et seq.*, requires the U.S. Environmental Protection Agency to periodically review criteria for National Ambient Air Quality Standards (NAAQS) and NAAQS themselves and revise such criteria and standards as appropriate. This process led to: (1) The 1982 publication of the EPA document Air Quality Criteria for Particulate Matter and Sulfur Oxides (EPA/600/8–82/029F) and an addendum bound in with volume I of that criteria document addressing further information on health effects (EPA/600/8–82/029F, volume I); and (2) the 1986 publication of a second addendum to the criteria document which updated the earlier document by evaluating new studies and their implications for determination of health-related criteria for the PM and SO_2 NAAQS (EPA/600/8–86/020F). In this process of reviewing new scientific studies concerning PM and SO_x health effects, it became apparent that the researchers had identified acid aerosols as one type of constituent of the PM/SO_x aerometric mix that may be associated with observed PM/SO_x health effects. In December, 1985, the Clear Air Science Advisory Committee (CASAC) of EPA's Science Advisory Board recommended that an acid aerosols issue paper be prepared to evaluate newly emerging literature concerning health effects directly associated with acid aerosols and to address the issue of possible listing of acid aerosols as a separate criteria pollutant for potential regulation by means of National Ambient Air Quality Standards (NAAQS).

The workshop draft of the issue paper will be availble for public inspection at the workshop, and observers will have an opportunity to make brief oral statements. Any later formal release of an external review draft of the issue paper will be announced in a subsequent Federal Register notice, and ample time will be provided for public review and submission of written comments.

Dated: May 29, 1987.

Vaun A. Newill,

Assistant Administrator for Research and Development.

[FR Doc. 87–12727 Filed 6–3–87; 8:45 am]

BILLING CODE 6560–50–M

[OPP–00241; FRL–3212–7]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a one-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) to review a set of scientific issues being considered by the Agency in connection with the peer review classification of 2,4–D as an Interim Category C oncogen (possible human) and a guidance document, "Aquatic Mesocosm Tests to Support Pesticide Registrations."

DATE: Thursday, June 25, 1987, from 8:30 a.m. to 4:00 p.m.

ADDRESS: The meeting will be held at: U.S. Environmental Protection Agency, Room 1112, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By Mail:

Stephen L. Johnson, Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS–769C), 401 M Street, SW., Washington, DC 20460

Office location and phone number:

Room 1121, Crystal Mall, Building No. 2, Arlington, VA, (703–557–7695).

SUPPLEMENTARY INFORMATION: The agenda for the meeting is:

1. Review of the scientific issues being considered by the Agency in connection with the peer review classification of 2,4–D as an interim C oncogen.

2. Review of a guidance document entitled, Aquatic Mesocosm Tests to Support Pesticide Registrations.

3. Completion of any unfinished business from previous Panel meetings.

4. In addition, the Agency may present status reports on other ongoing

programs of the Office of Pesticide Programs.

Copies of documents relating to items 1 and 2 above may be obtained by contacting:

Information Services Branch, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telephone number: Room 240, Crystal Mall No. 2, Arlington, VA, 703–557–7400.

Any member of the public wishing to submit written comments should contact Stephen L. Johnson at the address or phone listed above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file such statements before the meeting. To the extent that time permits and upon advance notice to the Executive Secretary, interested persons may be permitted by the chairman of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit or written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. All statements will be made part of the record and will be taken into consideration by the Panel. Persons wishing to make oral/written statements should notify the Executive Secretary and submit 10 copies of written comments and oral written testimony no later than June 16. 1987, in order to ensure appropriate consideration by the Panel.

Dated: May 28, 1987.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 87–12728 Filed 6–3–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51560B/51562C; FRL–3213–4]

Certain Chemical; Premanufacture; Termination of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is revoking, effective May 27, 1987, following the signing of a Consent Order for the new chemical substances subject to premanufacture notice (PMN) P–85–543, 544, 545, 546, and 547, the remaining portion of a 90–day extension of the reveiw period for PMNs P–85–543, 544, 545, 546, and 547 under the authority of section 5(c) of the Toxic Substances Control Act (TSCA).

FOR FURTHER INFORMATION CONTACT: Robert Wright, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Environmental Protection Agency, Room R–613, 401 M Street, SW., Washington, DC 20460, (202–382–7800).

SUPPLEMENTARY INFORMATION: The original 90-day review periods for PMNs P–85–543, 544, 545, 546, and 547 were scheduled to expire on July 4, 1985. EPA published a section 5(c) extension notice for the PMNs, in the **Federal Register** of July 16, 1985 (50 FR 28840), to provide the Agency with sufficient time to issue an Order under section 5(e). The Order prohibits manufacturing and importation of test or monitoring data addressing the potential risk of injury to human health.

The review periods, including the extension under section 5(c), are scheduled to expire July 1, 1987. EPA and the Company have agreed to enter into a Consent Order addressing the potential risk of injury to health. Therefore, EPA is revoking the remaining portion of the extended review, effective immediately.

Dated: May 21, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87–12729 Filed 6–3–87; 8:45 am]

BILLING CODE 6560–50–M

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 8]

Agency Forms Submitted for OMB Review

AGENCY: Export-Import Bank of the United States.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1984, Eximbank has submitted a proposed collection of information to the Office of Management and Budget for review.

Purpose: The proposed form is to be used by commercial banks and other lenders in applying for guarantees on working capital loans advanced by the lenders to U.S. exporters.

SUMMARY: The following maintain summarizes the information collection proposal submitted to OMB.

(1) Type of request: revised

(2) Number of forms submitted: One

(3) Form nuber: EIB 84–1 (Rev.)

(4) Title of information collection: EIB 84–1 (Rev.)—Application for Working Capital Loan Guarantee

(5) Frequency of use: Upon application for guarantees on working capital loans advanced by the lenders of U.S. exporters.

(6) Respondents: Commercial banks and other lenders throughout the United States.

(7) Estimated total number of annual responses: 100

(8) Estimated total number of hours needed to fill out the form: 50. Section 3504(h) of Pub. L. 96–511 does not apply.

Additional Information or Comments: Copies of the proposed application may be obtained from Helene Wall, Agency Clearance Officer (202) 566–8111. Comments and questions should be directed to Francine Picoult, Office of Managment and Budget, Information and Regulatory Affairs, Room 3235, New Executive Office Building, Washington, DC 20503, (202) 395–7340. All comments should be submitted within two weeks of this notice; if you intend to submit comments but are unable to meet this deadline, please advise Francine Picoult by telephone that comments will be submitted later.

Dated: May 21, 1987.

Helene H. Wall,

Agency Clearance Officer.

[FR Doc. 87–12757 Filed 6–3–87; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Requirement Approval by Office of Management and Budget

May 27, 1987.

The following information collection requirements have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632–7513.

OMB No.: 3060–0009.

Title: Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License, or Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License (Short Form).

Form No.: FCC 316.

The approval on form FCC 316 has been extended through 4/30/90. The November 1986 edition with a previous expiration date of 5/31/87 will remain in use until updated forms are available.

OMB No.: 3060–0055.

Title: Application for Cable Television Relay Service Station.

Form No.: FCC 327.

A revised form FCC 327 has been approved through 4/30/90. The July 1984 edition with a previous expiration date

of 4/30/87 will remain in use until revised forms are available.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-12710 Filed 6-3-87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Central Illinois Fellowship, Inc. and Illinois Valley Broadcasting Co.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant City and State	File No.	MM Docket No.
A. Central Illinois Radio Fellowship, Inc., Pekin, ILL.	BPED-821005Ad	87-156
B. Illinois Valley Broadcasting Company, Peoria, ILL.	BPED-830520AD	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR. 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

1. Financial, B
2. 307(b)—Noncommercial Educational, A, B
3. Contingent Comparative—Noncommercial Educational FM, A, B
4. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding 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 may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-12708 Filed 6-3-87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Freedom Broadcasting Corp., and C. Edward Lively d/b/a Pendleton Broadcasting

1. The Commission has before it the following mutually exclusive applications for a new AM station:

Applicant City and State	File No.	MM Docket No.
A. Freedom Broadcasting Corporation, Granite Falls, NC.	BP-850802AA	87-159
B. C. Edward Lively d/b/a Pendleton, Broadcasting Pendleton, SC.	BP-851029AJ	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

Air Hazard, B.
307(b), Both applicants.
Contingent comparative, Both applicants.
Ultimate, Both applicants.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding 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 may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-12711 Filed 6-3-87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Proceeding; Rockford Educational Broadcasting Foundation and Northern Illinois University

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant City and State	File No.	MM Docket No.
A. Rockford Educational Broadcasting Foundation, Rockford, IL.	BPED-850909MA	87-158
B. Northern Illinois University, Rockford, IL.	BPED-860512MJ	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

1. Comparative—Noncommercial, Educational FM, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding 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 may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-12712 Filed 6-3-87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Tate Broadcasting Limited; et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
A. Tate Broadcasting Limited, Banner Elk, NC.	BPH-860203NA	87-160
B. Columbia Radio Services Group, Banner Elk, NC.	BPH-860203NB	
C. Smith Communications, A Limited Partnership, Banner Elk, NC.	BPH-860203NC	
D. Lacy Benjamin Poe, Jr., Banner Elk, NC.	BPH-860203ND	
E. High Country Broadcasting of Banner Elk, Inc., Banner Elk, NC.	BPH-860203NE	

Applicant, City and State	File No.	MM Docket No.
F. Robert W. Locke and Linda D. Little d/b/a Little-Locke Broadcasting Co., Banner Elk, NC.	BPH-860203NG	
G. Media South Broadcasting, A General Partnership Banner Elk, NC.	BPH-860203NH	
H. Banner Elk Broadcasting, Banner Elk, NC.	BPH-860203NI	
I. Radio Banner Elk, Inc., Banner Elk, NC.	BPH-860203NM	
J. William Lon Sosh, Henry Gilbarre Royse, II and Timothy James Hodges d/b/a Sosh Broadcasting Group of Banner Elk, Banner Elk, NC.	BPH-860203NN	
K. Ratcliff Broadcasting Company, A General Partnership, Banner Elk, NC.	BPH-860203NO	
L. R.L. Bush, Jr., Banner Elk, NC.	BPH-860203NF	(Dismissed)

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading, Applicant(s)

1. Air Hazard, A, I, K
2. Comparative, A–K
3. Ultimate, A–K

3. A copy of the complete HDO in this proceeding 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 may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–12713 Filed 6–13–87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL ELECTION COMMISSION

[Notice 1987–8]

Filing Dates for Connecticut Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of Filing Dates for Connecticut Special Election.

SUMMARY: Under Connecticut statute, political parties set the dates for their conventions, which have the power to nominate under certain conditions. If one candidate achieves the most delegate votes at the Convention, he or she may become the party endorsed candidate. If one or more other candidates achieve 20% or more of the delegate votes, however, such candidate(s) may file for a challenge primary.

Committees required to file reports in connection with the Republican party convention to be held on June 29, 1987, must file a 12-day pre-convention report by June 17, 1987. Committees required to file reports in connection with the Democratic party convention to be held on June 30, 1987, must file a 12-day pre-convention report by June 18, 1987. In the event there is a challenge primary, committees required to file reports in connection with the special primary election to be held on July 21, 1987, must file a 12-day pre-primary election report due on July 9, 1987. Committees required to file reports in connection with the special general election to be held on August 18, 1987, must file a 12-day pre-general election report due on August 6, 1987, and a 30-day post-general election report due on September 17, 1987. The 1987 Mid-year report is waived for those committees which file timely reports in connection with either the special primary election or the special general election

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 999 E Street, NW., Washington, DC 20463, Telephone: (202) 376–3120, Toll-free: (800) 424–9530.

Notice of Filing Dates for Special Election, 4th Congressional District, Connecticut

All principal campaign committees of candidates in the Republican convention and all other political committees not filing monthly, which support candidates in the Republican convention, shall file a 12-day pre-convention report due on June 17, 1987, with coverage dates from the date of candidacy, or last report filed, through June 9, 1987. All principal campaign committees of candidates in the Democratic convention and all other political committees not filing monthly, which support candidates in the Democratic convention, shall file a 12-day pre-convention report due on June 18, 1987, with coverage dates from the date of candidacy, or last report filed, through June 10, 1987.

In the event of a Republican primary challenge, all principal campaign committees of candidates in the Republican special primary election and all other political committees not filing monthly, which support candidates in the Republican special primary election, shall file a 12-day pre-primary election report due on July 9, 1987, with coverage dates from June 10, 1987, through July 1, 1987.

In the event of a Democratic primary challenge, all principal campaign committees of candidates in the Democratifc special primary election and all other political committees not filing monthly, which support candidated in the Democratic special primary election, shall file a 12-day pre-primary election report due on July 9, 1987, with coverage dates from June 11, through July 1, 1987.

The 1987 Mid-year report is waived for those committees which file time reports in connection with the special primary election.

In the event of a primary challenge, all principal campaign committees of candidates in the special general election and all other political committees not filing monthly, which support candidates in the special general election, shall file a 12-day pregeneral election report due on August 6, 1987, with coverage dates from July 2, 1987, through July 29, 1987, and a 30-day post-general election report due on September 17, 1987, with coverage dates from July 30, 1987, through September 7, 1987.

In the event of no primary challenge, all principal campaign committees of the Republican candidate in the special general election and all other political committees not filing monthly, which support the Republican condidate in the special general election, shall file a 12-day pre-general election report due on August, 6, 1987, with coverage dates from June 10, 1987 through July 29, 1987, and a 30-day post-general election report due on September 17, 1987, with coverage dates from July 30, 1987 through September 7, 1987. All principal campaign committees of the Democratic candidate in the special general election and all other political committees not filing monthly, which support the Democratic candidate in the special general election, shall file a 12-day pre-general election report due on August 6, 1987, with coverage dates from June 11, 1987 through July 29, 1987, and a 30-day post-general election report due on September 17, 1987, with coverage dates from July 30, 1987 through September 7, 1987.

The 1987 Mid-year report is waived for those committees which file timely reports in connection with the special general election.

Dated: May 29, 1987.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 87-12679 Filed 6-3-87; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0077.

Title: Post Construction Elevation Certification/Floodproofing Certificate.

Abstract: The elevation form is the basis for charging property owners actuarial insurance rates. The form provides the community officials and other professionally approved a means to provide elevation data to the NFIP.

Type of Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Federal agencies of employees Non-profit institutions, Small businesses or organzations.

Number of Respondents: 25,000.

Burdern Hours: 5,000

Frequency of Recordkeeping or Reporting: Other—once per structure.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street SW., Washington, DC 20472.

Comment should be directed to Francine Picoult, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Dated: May 28, 1987.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 87-12689 Filed 6-3-87; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-793-DR]

Major Disaster and Related Determinations; Texas

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This a notice of the Presidential declaration of a major disaster for the State of Texas, (FEMA-793-DR), dated May 26, 1987, and related determinations.

DATED: May 26, 1987.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

Notice is hereby given that, in a letter of May 26, 1987, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the State of Texas resulting from severe storms and tornadoes on May 22, 1987, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. Robert D. Broussard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for the declared disaster.

I do hereby determine the following area of the State of Texas to have been affected adversely by this declared major disaster and are designated eligible as follows:

Reeves County for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Julius W. Becton, Jr.,

Director.

[FR Doc. 87-12690 Filed 6-3-87; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

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 or to the offices of the Board of Governors. Comments must be received not later than June 19, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Barton S. and Edna I. Burch,* Lindenwood, Illinois; to acquire 6.46 percednt of the voting shares of Holcomb Bancorp, Inc., Holcomb, Illinois, and thereby indirectly acquire Holcomb State Bank, Holcomb, Illinois.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Howard H. Rebhan,* Raymond, Illinois; to acquire 11.45 percent of the voting shares of Raymond Bancorp, Inc., Raymond, Illinois, and thereby indirectly acquire The First National Bank of Raymond, Raymond, Illinois.

2. *Shelby G. or Nell J. Stewart,* Central City, Kentucky; to acquire 26.35 percent of the voting shares of First Citizens United, Inc., Central City, Kentucky, and thereby indirectly acquire Citizens Union Bank, Central City, Kentucky.

C. **Fededral Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Phillip J. and Effie Riedesel,* Neskowin, Oregon; to acquire between 9.23 and 14.37 percent of the voting shares of West Coast Bancorp, Newport, Oregon.

Board of Governors of the Federal Reserve System, May 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-12644 Filed 6-3-87; 8:45 am]

BILLING CODE 6210-01-M

First Western Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the Offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, 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 writtten presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 22, 1987.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Western Bancshares, Inc.*, Booneville, Arkansas; to expand the geographic scope of a subsidiary, First Western Loan Company, Greenwood, Arkansas, which engages in the origination of commercial, consumer and mortgage loans on behalf of nonaffiliated investors pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-12645 Filed 6-3-87; 8:45 am]

BILLING CODE 6210-01-M

New Hampshire Savings Bank 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 June 26, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *New Hampshire Savings Bank Corp.*, Concord, New Hampshire; to merge with Seashore Bank Shares, Inc., Seabrook, New Hampshire, and thereby indirectly acquire Seabrook Bank and Trust Company, Seabrook, New Hampshire.

B. Federal Reserve Bank of Chicago (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *F & M Bancorporation, Inc.* Kaukauna, Wisconsin; to acquire at least 80 percent of the voting shares of The Security State Bank, Amherst Junction, Wisconsin. Comments on this application must be received by June 22, 1987.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Farmers Bancorp, Inc. of Marion, Kentucky*, Marion, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers Bank and Trust Company, of Marion, Kentucky, Marion, Kentucky.

Board of Governors of the Federal Reserve System, May 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-12646 Filed 6-3-87; 8:45 am]

BILLING CODE 6210-01-M

Norstar Bancorp, Inc., et al.; 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 section 225.21(a) of the 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 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 June 26, 1987.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Norstar Bancorp, Inc.*, Albany, New York; to engage *de novo* through its subsidiary, Norlife Reinsurance Company, Phoenix, Arizona, in acting as principal agent or broker of home mortgage redemption insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. Comments on this application must be received by June 17, 1987.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Florida National Banks of Florida, Inc.*, Jacksonville, Florida; to engage *de novo* through its subsidiary, Florida Investment Management Company, Jacksonville, Florida, in investment advisory services pursuant to § 225.25(b)(4) of the Board's Regulation Y.

2. *United Bancorporation of Alabama, Inc.*, Atmore, Alabama; to engage *de novo* through its subsidiary, Coastal Finance, Inc., Atmore, Alabama, in making, acquiring or servicing loans or other extensions of credit for its own account and for the account of others pursuant to § 225.25(b)(1); and to engage in leasing of personal or real property or acting as agent, broker, or advisory in leasing such property, pursuant to § 225.25(b)(5) of the Board's Regulation Y.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bank of Montreal*, Montreal, Quebec, Canada; Bankmont Financial Corp., New York, New York; and Harris Bancorp, Inc., Chicago, Illinois; to engage *de novo* through their subsidiary, Harris Life Insurance Company, Scottsdale, Arizona, and its finance company subsidiary, in credit-related insurance activities pursuant to § 225.25(b)(8) (i) and (ii) of the Board's Regulation Y.

2. *Edville Bancorp, Inc.*, Villa Park, Illinois; to engage *de novo* in the designing and marketing of computer software, associated materials, documentation and manuals, all of which will be financial, banking or economic in nature pursuant to § 225.25(b)(7) of the Board's Regulation Y.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fourth National Corporation*, Tulsa, Oklahoma; to engage *de novo* through its subsidiary, Roe & Cochran, Inc., Tulsa, Oklahoma, in investment and financial advice pursuant to § 225.25(b)(4)(iii) of the Board's Regulation Y.

E. *Federal Reserve Bank of Dallas* (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *West Bancshares, Inc.*, West, Texas; to engage *de novo* in making, acquiring and/or servicing loans for itself and for others of the type made by a mortgage company, consumer finance company or commercial finance company pursuant to § 225.25(b)(1) of the Board's Regulation Y. This activity will be conducted in the State of Texas.

Board of Governors of the Federal Reserve System, May 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-12647 Filed 6-3-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry; Request for Nominations

AGENCY: HHS.

ACTION: Request for nominations.

The Agency for Toxic Substances and Disease Registry (ATSDR) is a Public Health Service agency created by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund Act). The Agency conducts or sponsors research and services that address the public health consequences of hazardous substances in the environment, as defined by the Superfund Act. The Agency is in the process of establishing a Board of Scientific Counselors to advise it on matters of science. Approval of the charter for this Board is anticipated from the Secretary of the Department of Health and Human Services. The establishment of the Board will represent a milestone in our continuing efforts to assure scientific excellence of the Agency's programs and its products.

ATSDR is soliciting nominations for membership on this Board from eight scientific areas: medicine, toxicology, engineering, industrial hygiene, environmental chemistry, epidemiology, hydrology, and environmental health. The individuals nominated should be of outstanding scientific standing in their representative fields.

The following information is requested: name, affiliation, address, telephone number, and a current curriculum vitae. Nominations should be sent by June 20, 1987, to:

Barry L. Johnson, Ph.D., Associate Administrator, ATSDR, 1600 Clifton Road, NE., Atlanta, Georgia 30333, Telephones: FTS: 236-4590, Commercial: 404/454-4590.

Dated: May 28, 1987.

Elvin Hilyer,

Associate Director for Policy Coordination.

[FR Doc. 87-12641 Filed 6-3-87; 8:45 am]

BILLING CODE 4160-70-M

Centers for Disease Control

Immunization Practices Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee.

Date: June 23-24, 1987.

Place: Conference Room 207, Centers for Disease Control 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Time: 8:30 a.m.

Type of meeting: Open.

Contact person: Jeffrey P. Koplan, M.D., Executive Secretary of Committee, Centers for Disease Control (1-2047), 1600 Clifton Road, NE., Atlanta, Georgia 30333, Telephones: Fts: 236-3751, Commercial: 404/329-3751.

Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents.

Agenda: The Committee will discuss poliovirus vaccines, *Haemophilus influenzae* type b polysaccharide vaccine, cholera vaccine, and typhoid vaccine; consider a revised recommendation on BCG; updates on surveillance of HIV-positive children and acellular pertussis vaccine; and consider other matters of relevance among the Committee's objectives.

Agenda items are subject to change as priorities dictate.

Dated: May 29, 1987.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 87-12642 Filed 6-3-87; 8:45 am]

BILLING CODE 4160-18-M

Planning Human Laboratory Neurobehavioral Toxicology and Pharmacokinetic Studies; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease

Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Date: June 22–23, 1987.
Time: 10 a.m.–3 p.m. each day.
Place: Room B–28, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.
Purpose: To review the present Human Laboratory Behavioral Toxicology protocol and provide input into the development of the next protocol. Areas included in the discussion will be chemical selection, neurobehavioral assessment, body burden indicators, and physiological profile modeling. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.
Additional information may be obtained from: Robert B. Dick, Ph.D., Division of Biomedical and Behavioral Sciences, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephones: FTS: 684–8383, Commercial: 513/533–8383.

Dated: May 28, 1987.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 87–12643 Filed 6–3–87; 8:45 am]

BILLING CODE 4160–19–M

Food and Drug Administration

[Docket No. 87F–0162]

American Cyanamid Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administrative (FDA) is announcing that American Cyanamid Co. has filed a petition proposing that the food additive regulations be amended to provide for sulfosuccinic acid 4-ester with polyethylene glycol nonylphenyl ether, disodium salt for use as a surfactant in contact with food.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3908) has been filed by the American Cyanamid Co., One Cyanamid Plaza, Wayne, NJ 07470, proposing that § 178.3400 *Emulsifiers and/or surface-active agents* (21 CFR 178.3400) be amended to provide for sulfosuccinic acid 4-ester with polyethylene glycol nonylphenyl ether, disodium salt for use as a surfactant in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: May 27, 1987

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–12659 Filed 6–3–87; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 87F–0153]

The Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the DOW Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of hydrogen peroxide solution to sterilize vinylidene chloride-vinyl chloride copolymers in contact with food.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3994) has been filed by the Dow Chemical Co., Midland, MI 458674, proposing that § 178.1005 *Hydrogen peroxide solution* (21 CFR 178.1005) be amended to provide for the safe use of hydrogen peroxide solution to sterilize vinylidene chloride-vinyl chloride copolymers in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: May 27, 1987.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–12660 Filed 6–3–87; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 87F–0155]

The Goodyear Tire and Rubber Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Goodyear Tire & Rubber Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ethylene terephthalate-isophthalate copolymers containing a minimum of 98 weight percent of polymer units derived from ethylene terephthalate for use as a component of articles in contact with alcoholic beverages.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5)), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3990) has been filed by the Goodyear Tire & Rubber Co., 130 Johns Ave., Akron, OH 44305–4097, proposing that § 177.1630 *Polyethylene phthalate polymers* (21 CFR 177.1630) be amended to provide for the safe use of ethylene terephthalate-isophthalate copolymers containing a minimum of 98 weight percent of polymer units derived from ethylene terephthalate for use as a component of articles in contact with alcoholic beverages.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: May 27, 1987.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–12661 Filed 6–3–87; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Medicaid Program; Hearing: Reconsideration of Disapproval of a Minnesota State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on July 21, 1987 in Chicago, Illinois to reconsider our decision to partially disapprove Minnesota State Plan Amendment 86–76.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk June 19, 1987.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to partially disapprove a Minnesota State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Minnesota SPA 86–76 violates Federal regulations at 42 CFR 433.139(f).

Minnesota SPA 86–76 proposes in part to establish a threshold amount for cost avoidance claims. "Cost avoidance" is a methodology required to be used for claims involving third party liability that are processed on or after May 12, 1986 (except where the State has obtained a waiver of this requirement), where the probable existence of third party liability is established at the time the claim is filed (42 CFR 433.139). The State must initially reject a claim when it has established the existance of third party liability, return the claim to the provider, and pay the claim only to the extent that payment allowed under the State's payment schedule exceeds the amount of the third party's liability *after* the provider has determined the amount of the third party liability. No threshold amount is permitted by the regulations for processing claims under the cost avoidance methodology. Threshold amounts under 42 CFR 433.139(f) apply only to third party recovery by the State in situations where the State makes payment of the claim in full and then seeks to recover from the liable third party. Therefore, HCFA has determined that the specific provision in Minnesota SPA 86–76 proposing a cost avoidance threshold amount is in violation of Federal regulations at 42 CFR 433.139(f).

The notice to Minnesota announcing an administrative hearing to reconsider our partial disapproval of its State plan amendment reads as follows:

Ms. Sandra Gardebring,
Commissioner, Minnesota Department of Human Services, Centennial Office Building, St. Paul, Minnesota 55155.

Dear Ms. Gardebring: This is to advise you that your request for reconsideration of the decision to disapprove Minnesota State Plan Amendment 86–76 was received on April 29, 1987.

Minnesota State Plan Amendment 86–76 proposes ot establish a threshold amount for cost avoidance claims in determining whether to seek reimbursement from liable third parties whose existence has been established at the time the claim is filed. You have requested a reconsideration of whether this plan amendment conforms to the requirements for approval under the Social Security Act and pertinent Federal regulations. The issue to be considered at the hearing is whether threshold amounts are permitted for cost avoidance claims under Federal regulations at 42 CFR 433.139(f).

I am scheduling a hearing on your request to be held on July 21, 1987 at 10:00 a.m. in the 8th Floor Conference Room, 175 W. Jackson Blvd., Suite A–835, Chicago, Illinois. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Albert Miller as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301)594–8261.

Sincerely,
William L. Roper, M.D.,
Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: May 27, 1987.

William L. Roper,
Administrator, Health Care Financing Administration.

[FR Doc. 87–12721 Filed 6–3–87; 8:45 am]
BILLING CODE 4120–03–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Performance Review Board Appointments; Changes in Membership

AGENCY: Department of the Interior.

ACTION: Notice of Changes in Membership of the Department of the Interior's Performance Review Boards.

SUMMARY: This notice provides the names of individuals to serve on the Department of the Interior's Performance Review Boards. The publication of these appointments is required by section 405(a) of the Civil Service Reform Act of 1978 (Pub. L. 95–454, 5 U.S.C. 4314(c))(4)).

DATE: June 4, 1987.

FOR FURTHER INFORMATION CONTACT: Morris A. Simms, Director of Personnel, Office of the Secretary, Department of the Interior, 1800 C Street NW, Washington, DC 20240, Telephone Number: 343–6761.

Performance Review Boards (PRB's) As of May 18, 1987

Departmental Performance Review Board (DPRB)

Joseph Gorrell (Career), Chairperson
Michael O'Bannon (Career)
Hazel Elbert (Career)
Wayne Marchant (Career)
David O'Neal (Noncareer)
Kittie Baier (Noncareer)
Gale Norton (Noncareer)

Office of the Secretary PRB

Patricia Ryan (Noncareer), Chairperson
Thomas Sheehan (Career)
Charlotte Spann (Career)
Oscar Mueller (Career)
Jerry Vance (Career)

Assistant Secretary for Indian Affairs PRB

Maurice W. Babby (Career, Field), Chairperson

Richard Whitesell (Career, Field)
Frank Ryan (Career)
James S. Bregman (Career)

Office of the Solicitor PRB

Howard Shafferman (Noncareer), Chairperson
Charles Hughes (Career)
Anthony Conte (Career, Field)
Tim Elliott (Career)

Assistant Secretary for Fish and Wildlife and Parks PRB

Susan Recce (Noncareer), Chairperson
Joseph Doddridge (Career)
Galen Buterbaugh (Career, Field)
Eugene Hester (Career)
Lorraine Mintzmeyer (Career, Field)

Assistant Secretary—Water and Science PRB

William Klostermeyer (Career), Chairperson
Clifford Barrett (Career, Field)
Darrell Mach (Career)
Richard Witmer (Career)
Jack Stassi (Career)
Lewis Wade (Career, Field)

Assistant Secretary—Land and Minerals Management PRB

James Cason (Noncareer), Chairperson
Thomas Gernhofer (Career)
Robert Boldt (Career)
Tom Allen (Career)
G. Curtis Jones (Career)

Approved for the Executive Resources Board.

Dated: May 26, 1987.

Joseph W. Gorrell,

Principal Deputy Assistant Secretary—Policy, Budget and Administration.

[FR Doc. 87-12735 Filed 6-3-87; 8:45 am]

BILLING CODE 4310-05-M

Bureau of Land Management

[WO-310-87-4213-23]

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-4630.

Title: *"Native Indian or Eskimo of Alaska Trustee Deed Application" 43 CFR 2564 (OMB No. 1004-0028)*

Abstract: Respondents submit information to substantiate claims to townsite lots in Alaska communities which have been established as trustee townsites under the Alaska townsite laws. The information allows the Townsite Trustee to determine eligibility of individuals to receive title under townsite laws.

Bureau Form Number: AK 2560-6(6/84).

Frequency: One time application for land.

Description of Respondents: Claimants of lands reserved for the benefit of Indian or Eskimo occupants in the trustee townsites in Alaska.

Annual Responses: 500.

Annual Burden Hours: 250.

Bureau clearance officer: Rick Iovaine (202) 653-8853.

Guy E. Baier,

Acting Assistant Director, Bureau of Land Management.

May 12, 1987.

[FR Doc. 87-12663 Filed 6-3-87; 8:45 am]

BILLNG CODE 4213-23-M

[UT-060-4410-08]

Announcement of Comment Period for Draft Environmental Assessment Moab District, Utah

May 29, 1987.

AGENCY: Bureau of Land Management, Moab, Utah.

ACTION: Conversion of livestock grazing privileges in portions of 5 Wilderness Study Areas (WSA's).

SUPPLEMENTARY INFORMATION: Notice of a 30-day comment period on an analysis of impacts of converting grazing allotments from one kind of livestock to another (sheep to cattle). Allotments considered include portions of the following WSA's: Flume Canyon UT-060-100-B, Coal Canyon and Spurce Canyon UT-060-100-C, Floy Canyon UT-060-068-B, and Westwater Canyon UT-060-118. The Environmental Assessment was done as part of the Resource Management (RMP) amendment process.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Grand Resource Area, P.O. Box M, Moab, Utah 84532, (801) 259-8193. A copy of the draft Environmental Assessment is available upon request.

Kenneth V. Rhea,

Acting District Manager.

[FR Doc. 87-12698 Filed 6-3-87; 8:45 am]

BILLING CODE 4310-DQ-M

[OR-130-07-4410-08: GP-07-207]

Record of Decision and Rangeland Program Summary for the Spokane District Resource Management Plan; Washington

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of record of decision for the Spokane District Resource Management Plan.

SUMMARY: In accordance with 43 CFR 1610.5 and section 102(2)(c) of the National Environmental Policy Act of 1969 (40 CFR 1505.2), the Department of the Interior, Bureau of Land Management, notice is hereby given of the issuance of the Record of Decision and Rangeland Program Summary for the Spokane District Resource Management Plan. Initiation of actions, which implement this plan, can begin with the signing of the Record of Decision.

DATES: The Record of Decision became effective with the signing of that document on May 19, 1987, by William Luscher, State Director, Oregon. Copies of this document have been mailed to those people who received the draft and final RMP/EIS documents. Copies were available for the public on June 1, 1987.

ADDRESS: Requests for copies of the approved Resource Management Plan Record of Decision and Rangeland Program/Summary should be addressed to Gary Yeager, Project Manager, Bureau of Land Management, Spokane District, East 4217 Main Avenue, Spokane, Washington 99202.

SUPPLEMENTARY INFORMATION: The Draft RMP/EIS was released for a 90-day public comment period in October 1984. The proposed RMP/Final EIS was released for public review in August 1985. Two protests were received, analyzed, and denied by the Director, BLM. The Governor of Washington did not identify any inconsistencies with State or local plans, programs, or policies or recommend any changes in the proposed plan.

Alternatives Analyzed

Four alternatives for managing the public lands in the Spokane District were analyzed in the Resource

Management Plan/Environmental Impact Statement (RMP/EIS).

The selected Resource Management Plan (the Preferred Alternative in the Draft RMP/EIS) emphasizes production on a sustained yield basis and use of renewable resources on the majority of public lands in the Planning Area. It also provides for protection, maintenance, or enhancement of riparian, soil, water, botanical, and recreational resource values as well as wildlife habitat. This alternative is the environmentally preferable alternative. The Resource Management Plan best meets national guidance; best satisfies the planning criteria, including consistency with other federal, state, local, and tribal plans; and best resolves issues while contributing to the local economy.

The Production Alternative would have emphasized a higher degree of allowable commodity production, considering legal constraints. Trade-offs would have emphasized consumptive uses over nonconsumptive uses.

The Protection Alternative would have emphasized protection and enhancement of natural values while allowing use and production only at levels that do not risk diminishing such values. Trade-offs would have favored protection of resources over consumptive uses.

The No Action Alternative provided for the continuation of existing management. This alternative maintained the present management direction while responding to requirements of new regulations and changing policies. Trade-offs would have emphasized commodity production while safeguarding critical resource values.

Decision

The decision is to adopt Alternative B (the Preferred Alternative of the Spokane District Final Resource Management Plan/Environmental Impact Statement). The actions contained in the plan will be applied to 307,523 acres of public land in Spokane District. The major decisions in this plan are:

Continue to authorize grazing permits at the 1983 total preference level, 30,073 Animal Unit Months (AUMs). Management systems will be developed, maintained, or revised for 16 Improve category allotments. Competitive forage will initially be available for wildlife at current levels. All future livestock use adjustments will focus on achieving 50 percent utilization of key forage species.

Range improvements will be made in the Maintain and Custodial-1 allotments if the intermingled landowners cooperate in the preparation and implementation of Coordinated Resource Management Plans.

Manage 41,443 acres of commercial forestland for a sustainable harvest level of approximately 39 million board feet per decade. Minor forest products will be sold where consistent with protection of other resource values.

Conduct land tenure adjustments to consolidate or otherwise promote the efficient management of the public land resources, protect and improve valuable wildlife habitat, enhance recreational opportunities, and provide access to public lands.

Leave all locatable minerals on public lands in the planning area open to entry under the provisions of the Mining Law of 1982, as amended, except for 80 acres currently under protective withdrawal. All lands, currently available for mineral leasing, will remain available except for the 7,140-acre Juniper Dunes Wilderness Area. Leases in this will not be reissued once terminated.

Nine of the ten areas, proposed for designation as Areas of Critical Environmental Concern (ACEC) in the Final RMP, are designated. These areas are Hot Lakes Research Natural Area (RNA), Brewster Roost, Colockum Creek, Rock Island Canyon, Yakima River Cliff and Umtanum Ridge, McCoy Canyon, Earthquake Point, Roosevelt Slope, and Sentinel Slope. In addition to the proposed ACEC, this ROD reaffirms the designation of the three existing ACESs, the Juniper Forest, Webber Canyon and the Yakima and Columbia River Islands ACECs. In all, a total of 8,540 acres of public land are covered by these designations.

The following lands under the administration of the Bureau of Land Management are designated as closed, restricted, or open to off-road vehicle use. All of the public lands in the planning area are affected by these designations.

These designations are a result of resource management plan decisions made in the Spokane District RMP/EIS. These designations are published as final until such time that changes in resource management warrant modifications.

A. Closed Designations

The public lands which are closed to off-road vehicle use are located in five areas and include 13,418 acres. These five areas are:

Area:	*Acres*
Hot Lakes ACEC (RNA)	80
Chopaka Mountain WSA	5,518
Webber Canyon ACEC	40
Juniper Dunes Wilderness	7,140
Yakima and Columbia River Islands ACEC	640

B. Restricted Designations

1. Seasonal Restrictions

The use of motorized vehicles in these areas is restricted to designated or existing roads and trails on a seasonal basis for watershed protection reasons. A total of 8,980 acres are covered by this designation. The areas where these lands are located are:

Restricted November 16–March 1:	*Acres*
Similkameen Management Area	1,270
Conconully Management Area	2,670
Restricted February 16–June 1:	
Douglas Creek Management Area	5,040

2. Permanent Restriction

The use of motorized vehicles in these areas is restricted to designated or existing roads and trails on a year round basis for watershed protection reasons. A total of 54,705 acres are covered by this designation. The areas where these lands are located are:

Management area:	*Acres*
Similkameen	5,828
Jameson Lake	2,860
Douglas Creek	4,580
Saddle Mountains	19,990
Badger Slope	7,680
Rock Creek	6,427
Juniper Forest	7,340

C. Open Designations

Areas which are designated open to off-road vehicle use comprise 230,500 acres. Much of the district's land topography naturally limits off-road vehicle use. The open designation was determined to be appropriate as off-road use of motor vehicles is essential to conduct the management and authorized utilization of resource values.

In addition to these designations, off-road vehicle use is also hereby regulated in accordance with the authority and requirements of Executive Orders 11644 and 11989 and regulations contained in 43 CFR Part 8340.

These designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the Spokane District Manager. Information and maps of the area with open, closed and restricted designations was included in The Final Resource Management Plan. A limited number of additional maps are available

at the Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202/ and the Wenatchee Resource Area Office, North 1133 North Western Avenue, Wenatchee, Washington 98801.

Lee V. Larson,

Acting District Manager.

[FR Doc. 87-12699 Filed 6-3-87; 8:45 am]

BILLING CODE 4310-33-M

[NV-060-07-4322-02]

Battle Mountain District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Grazing Advisory, Board meeting.

SUMMARY: In accordance with Pub. L. 94-579 and Section 3, Executive Order 12548 of February 14, 1986, a meeting of the Battle Mountain District Grazing Advisory Board will be held.

DATE: July 10, 1987, beginning at 9:00 a.m. in the Shoshone-Eureka Conference Room, Battle Mountain District Office, North 2nd and Scott Streets, Battle Mountain, Nevada.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

(1) Election of Chairperson and Vice Chairperson
(2) Status of range improvement program,
(3) Shoshone-Eureka Resource Area land use planning efforts, and
(4) Current BLM policy/regulations

The meeting is open to the public. Interested persons may make oral statements to the board between 2:30 and 3:00 p.m. on July 10, 1987, or file written statements for the Board's consideration. If you wish to make oral comments, please contact Terry L. Plummer by July 2, 1987.

FOR FURTHER INFORMATION CONTACT: Terry L. Plummer, District Manager, P.O. Box 1420, Battle Mountain, Nevada 89820 or phone (702) 635-5181.

Dated: May 28, 1987.

Terry L. Plummer,

District Manager, Battle Mountain, Nevada.

[FR Doc. 87-12701 Filed 6-3-87; 8:45 am]

BILLING CODE 4310-HC-M

[MT-070-07-4332-08]

Wilderness Study for Sleeping Giant Wilderness Study Area, Montana

AGENCY: Bureau of Land Management, Butte District Office.

ACTION: Notice to Begin Wilderness Study for Sleeping Giant Wilderness Study Area.

SUMMARY: The Sleeping Giant was identified as a wilderness study area (WSA) in August, 1981 through the wilderness inventory process. The 6,112-acre WSA was originally scheduled for study as part of the Headwaters Resource Management Plan (RMP) in 1983 and a **Federal Register** notice was issued to that effect on October 21, 1981. The WSA was then removed from wilderness study in the Headwaters RMP due to the Secretary of Interior's split-estate decision published in the **Federal Register** Vol. 47 No. 57372 on December 30, 1982 and released as policy guidance to the field in Instruction Memorandum 83-188 dated December 23, 1982.

As a consequence, Sleeping Giant was considered for other forms of management through the Headwaters RMP in accordance with Instruction Memorandum 83-188, Change 1. In November 1983, the area was designated as an Area of Critical Environmental Concern for protection of recreation and wildlife values.

A solicitor's opinion dated August 30, 1985 overturned the 1982 decision and gave BLM the authority to review both split-estate and post-FLPMA acquired lands for wilderness preservation. BLM has decided to conduct a study of the Sleeping Giant WSA.

The study will be conducted under Section 202 of FLPMA in accordance with the guidance memorandum of September 17, 1985 issued by the BLM Director as well as the provisions of the BLM's "Wilderness Study Policy; Policies, Criteria and Guidelines for conducting Wilderness Studies on Public Lands", dated February 3, 1982. A final environmental impact statement (EIS) will be completed for the area by 1989.

DATES: Two public, open-house meetings have been scheduled to better assess appropriate issues for inclusion in the Sleeping Giant Wilderness Study. These meetings will be as follows:

(1) June 17th (4 pm-8 pm), Jorgensen Holiday Motel, 1714 11 Avenue, Helena, Montana
(2) June 18th (4 pm-8 pm), Heritage Inn, 1700 Fox Farm Road, Great Falls, Montana

FOR FURTHER INFORMATION CONTACT: Gary Leppart, Headwaters Resource Area Manager, Bureau of Land Management, Box 3388 Butte, Montana 59702 Telephone: 406/494-5059 (FTS) 585-5059.

James A. Moorhouse,

District Manager.

May 29, 1987.

[FR Doc. 87-12762 Filed 6-3-87; 8:45 am]

BILLING CODE 4310-DN-M

[(ID-040-4212-14-24-10)]

Realty Action; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I-23339 and I-23340 Noncompetitive Sale of Public Lands in Lemhi County, Idaho.

DATE AND ADDRESS: The sale offering will be held on August 17, 1987, at 10:00 a.m. at the Salmon District Office, Highway 93 South, Box 430, Salmon, Idaho 83467.

SUMMARY: Based on public supported land use plans the following described land has been examined and identified as suitable for disposal by public sale under section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 stat. 2750, U.S.C. 1713), at no less than the appraised fair market value.

The below described lands are hereby segregated from appropriation under the public land laws, including the mining laws, as provided by 43 CFR 2711.1-2(d).

Parcel	Legal description	Acres	Sale type
I-23339	T.19N., R.24E., B.M., Section 21: Lot 11	6.14	Direct.
I-23340	T.20N., R.23E., B.M., Section 25: NE¼SW¼NW¼, NE¼SE¼SW¼NW¼.	12.5	Direct.

When patented the lands will be subject to the following reservations:

1. Ditches and Canals (43 U.S.C. 945).

2. Oil and gas on both parcels and coal on parcel I-23340.

3. All valid and existing rights and reservations of record, including:

a. I-23340 only: Road rights-of-way I-20154, I-20594, and I-23960.

b. I-23340 only: Pursuant to the authority contained in Section 3(d) of Executive Order 11988 of May 24, 1977, and Section 203 of Public Law 94-579 of October 21, 1976, the patent to this tract

is subject to a restriction which constitutes a convenant running with the land, that the portion of the land lying within the 100-year floodplain may be used for agricultural purposes only and not for dwellings, buildings, dumps, landfills, placement of hazardous wastes, leach fields, lagoons, etc., which could contaminate the water source.

Sale procedures

These parcels will be offered by *Direct Sale* to Muleshoe Ranch, Inc. (I–23339), and Rodger C. Swanson (I–23340) at the appraised fair market value. These lands have been improved and used by these parties and they are the owners of the adjoining private lands. Disposal by direct sale will legalize their use and protect their investments. The designated bidders will be notified of the final appraised fair market value prior to the date of sale. No other bids or bidders will be considered.

The designated bidders will be required to submit payment of a least thirty (30) percent of the appraised fair market value by cash, certified or cashier's check, bank draft or money order at the above address on August 17, 1987. The balance will be due within 180 days, payable in the same form, and at the same location. Failure to submit the remainder of the payment within 180 days will result in cancellation of the sale offering and forfeiture of the deposit. A bid will also constitute an application for conveyance of the mineral interests of no known value. A $50.00 non-returnable filing fee for processing the mineral conveyance must accompany each bid. If no bid is received from the designated bidders on the sale date, the parcels will then be offered for sale by competitive bidding procedures beginning on September 7, 1987, and continuing until December 7, 1987.

SUPPLEMENTARY INFORMATION: Detailed information concerning these parcels, terms and conditions of the sale, and bidding instructions may be obtained by contacting Stephanie Snook at (208) 756–5400. For a period of 45 days from the date of this notice, interested parties may submit comments regarding the sale to the Salmon District Manager at the above address. Objections will be reviewed by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: May 27, 1987.

Shirley Alder,

Acting District Manager.

[FR Doc. 87–12760 Filed 6–3–87; 8:45 am]

BILLING CODE 4310–GG–M

[MT–070–07–4212–13; M72225]

Realty Action; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of Notice of Realty Action for M72225, exchange of public lands and private lands in Lewis and Clark County.

SUMMARY: This notice corrects the original Notice of Realty Action for M72225 published on May 19, 1987 (52 FR 18751). In exchange for the public lands listed in the notice, the United States will acquire certain private lands from the Sieben Ranch Company. Publication of the notice in the **Federal Register** segregated the public lands from settlement, sale, location and entry under the public land laws, including the mining laws but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976. This segregative effect will expire two years from the date of publication of the notice or when patent issues whichever occurs first.

James A. Moorehouse,

District Manager.

May 28, 1987.

[FR Doc. 87–12664 Filed 6–3–87; 8:45 am]

BILLING CODE 4310–DN–M

[CA–940–07–4520–12; (Group 774)]

California; Filing of Plat of Survey

May 26, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Alpine County

T. 11 N., R. 19 E.

2. This plat (two sheets) representing the dependent resurvey of the west boundary, a portion of the north boundary, and a portion of the subdivisional lines, and the survey of the subdivision of sections 6, 7, 17, 18, 19, 20, 23, and 26, Township 11 North, Range 19 East, Mount Diablo Meridian, California, under Group No. 774, California, was accepted May 15, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the U.S. Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 87–12665 Filed 6–3–87; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12; (Group 917)]

California; Filing of Plat of Survey

May 26, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Marin County

T. 1 N., R. 6 W.

2. This plat (two sheets) representing the dependent resurvey of a portion of the exterior boundaries of the Golden Gate Recreation Area, and the survey of a portion of the Golden Gate Recreation Area, Township 1 North, Range 6 West, Mount Diablo Meridian, California, under Group No. 917, California, was accepted May 15, 1987.

3. This plat represents the administrative boundary survey of a portion of the exterior boundaries of Forts Cronhite, Barry, and Baker Military Reservations, within the Golden Gate Recreation Area, Township 1 South, Range 6 West, Mount Diablo Meridian, California, under Group No. 917, California, was accepted May 15, 1987.

4. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

5. This plat was executed to meet certain administrative needs of the National Park Service.

6. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 87–12666 Filed 6–3–87; 8:45 am]

BILLING CODE 4310–40–M

[CA-940-07-4520-12; (Group 869)

California; Filing of Plat of Survey

May 26, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Inyo County

T. 23 S., R. 43 E.

2. This plat (2 sheets) representing the dependent resurvey of a portion of the south and west boundaries, a portion of the subdivisional lines, and a portion of Mineral Survey No. 5889, the survey of the subdivision of sections 31, 32, and 33, and the metes-and-bounds survey of certain lots in sections 31, 32, and 33, Township 23 South, Range 43 East, Mount Diablo Meridian, California, under Group No. 869, California, was accepted May 12, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 87-12667 Filed 6-3-87; 8:45 am]

BILLING CODE 4310-01-M

[CA-940-07-4520-12; (C-10-87)]

California; Filing of Plat of Survey

May 26, 1987.

1. This supplemental platof the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Butte County

T. 23 N., R. 4 E.

2. This supplemental plat of the Northwest ¼, Section 6, Township 23 North, Range 4 East, Mount Diablo Meridian, California, was accepted April 17, 1987.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Plumas National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 87-12668 Filed 6-13-87; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-07-4520-12 (Group 906)]

California; Filing of Plat of Survey

May 26, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Plumas County

T. 22 N., R. 13 E.

2. This plat representing the dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines, the survey of the subdivision of section 4, and the metes-and-bounds survey of a portion of California State Highway No. 70, Township 22 North, Range 13 East, Mount Diablo Meridian, California, under Group No. 906, California, was accepted May 1, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Plumas National Forest, U.S. Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 87-12669 Filed 6-3-87; 8:45 am]

BILLING CODE 4310-40-M

[NV-930-07-4212-22]

Nevada; Filing of Plats of Survey

May 27, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the latest filing of Plats of Survey in Nevada.

DATE: Filings were effective on dates shown.

FOR FURTHER INFORMATION CONTACT: Lacel Bland, Chief, Branch of Cadastral Survey, Nevada State Office, Bureau of Land Management, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, (702) 784-5484.

SUPPLEMENTARY INFORMATION: .

1. The Plats of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on July 20, 1987:

Mount Diablo Meridian, Nevada

T. 12 N., R 39 E.,
T. 13 N., R 39 E.

2. The area surveyed and resurveyed within T. 12 N., R. 39 E., is mostly rolling with the southeast portion being rolling mountains. The elevation ranges from about 6,200 to 7,000 ft., above sea level. The soil varies from sandy clay loam in the lower elevations to rocky in the higher elevations. The vegetation consists of sagebrush, shadscale, rabbit brush, Brigham tea and native grass. There are scattered stands of juniper and pinon pine on the east side of the Township.

There has been mining activity in the Berlin area.

Access into the Township is provided by numerous improved and desert trail roads.

The land within T. 13 N., R. 39 E., is about 6,300 to 7,400 ft. above sea level and is gently rolling to mountainous. The soil is sandy clay loam in the lower elevations and heavy clay and rocky in the mountains. The vegetation consists of sagebrush, shadscale, rabbit brush and native grass. There are heavy stands of juniper and pinon in sections 33 and 34.

The town of Ione is located in section 34.

Access into the Township is provided by Nevada State Highways No. 21 and No. 91 and other improved and unimproved roads. There is evidence of mining activity throughout the Township.

3. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable land laws, the lands described above are hereby open to application, petition, and disposal as appropriate. All such valid applications received at or prior to 10:00 a.m., on July

20, 1987, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing. The lands described above have been open and continue to be open to the mining and mineral leasing laws.

4. The following Plats of Survey of lands which are resurveys or supplemental plats, and, therefore, do not require an opening data, were officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on May 22, 1987:

Mount Diablo Meridian, Nevada

Dependent Resurvey and Subdivision of Sections
Supplemental Plat

T. 21 N., R. 20 E.
T. 23 N., R. 27 E.

These surveys were executed to meet the administrative needs of the Bureau of Land Management (BLM), and in T. 21 N., R. 20 E., the needs of the Bureau of Indian Affairs (BIA).

All of the above listed plats will immediately become the basic record of describing the lands for all authorized purposes. The plats will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the plats and related field notes may be furnished to the public upon payment of the appropriate fee.

Edward F. Spang,

State Director, Nevada

[FR Doc. 87–12761 Filed 6–3–87; 8:45 am]

BILLING CODE 4310–HC–M

Minerals Management Service

Development Operations Coordination; Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Exploration Partners, Ltd. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5980, Block 740, Mustang Island Area, offshore Texas. 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 Surfside, Texas.

DATE: The subject DOCD was deemed submitted on May 22, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it 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, executive of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: May 27, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–12670 Filed 6–3–87; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Union Exploration Partners, Ltd.

AGENCY: Minerals Management Service; Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Exploration Partners, Ltd. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4000, Block 53, South Timbalier Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Dulac and Houma, Louisiana.

DATE: The subject DOCD was deemed submitted on May 28, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 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 it 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: May 29, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–12702 Filed 6–3–87; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf Oil and Gas Information Program (OCSIP)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the "Alaska Summary/Index: January 1986–December 1986" (OCS Information Report MMS 87–0016) has been published. The publication's purpose is to provide affected States, local governments, and other interested parties with current information on OCS oil and gas activities and related issues so that they may plan for any possible impacts.

DATE: Availability effective June 4, 1987.

TO OBTAIN COPIES: Write or call the OCS Information Program, Office of Offshore Information and Publications, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Mail Stop 642, Vienna, VA 22180. Telephone (703) 285–2280. Copies are free upon request.

FOR FURTHER INFORMATION CONTACT: Douglas L. Slitor, Chief, OCS Information Program, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Mail Stop 642, Vienna, VA 22180. Telephone (703) 285–2285.

SUPPLEMENTARY INFORMATION: The OCSIP publishes its documents in compliance with a mandate in the OCS Lands Act Amendments of 1978 (43 U.S.C. 1352). According to the mandate, the documents are to provide affected States, local governments, and other interested parties with current information on OCS oil and gas activities and related issues to help them plan for any potential impacts.

The OCSIP has changed the format of their documents by combining the separately published Summary Reports and Indexes into a combination document now called a Summary/Index. The change was made to provide a more succinct and more cost effective reference planning tool for those interested in OCS developments in their regions, as well as for Federal Government managers. Topics still include the following:

(1) Offshore oil and gas resources.

(2) Magnitude and timing of OCS activities.

(3) Oil and gas transportation strategies and onshore support facilities.

(4) Appendixes:

A. OCS-related studies in Alaska.

B. OCS-related issues in Alaska.

C. Leasing procedures.

D. Federal Directory.

E. State directories/responsibilities.

F. Federal depository libraries.

G. Bibliography of OCS Information Reports.

The document's supportive data indicate a decline in 1986 in lease sales and exploration activities on the Alaska OCS, as well as in State waters. However, a drilling record of six well completions was set for the U.S. Beaufort. While all of the crude oil produced in and offshore Alaska continues to come from State leases, five OCS wells have been determined producible, but no plans have been announced to date by OCS lessees to further develop these prospects. Also in 1986, plans were advanced for constructing a trans-Alaska gas system to transport the North Slope's natural gas resources to Pacific-rim markets. A private West Coast firm made public its desire to construct a refinery in Valdez to convert crude oil from the Trans-Alaska Pipeline into refined products destined exclusively for export markets. Alaska saw during 1986 the largest sealift of equipment in the history of the North Slope. Another significant sealift is planned for 1987; commitments after 1987 are uncertain.

Dated: May 28, 1987.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 87-12671 Filed 6-3-87; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, Fred D. Allen, (703) 875-1573, IRM/PE, Room 1109, SA-14, Washington, DC 20503.

Date Submitted: May 20, 1987.

Submitting Agency: Agency for International Development.

OMB Number: 0412-0521.

Form Number: AID 1620-9.

Type of Submission: Renewal.

Title: Historically Black Colleges and Universities—International Resources Inventory (IRI)—Institutional Profile.

Purpose: The National Association for Equal Opportunity in Higher Education (NAFEO) has established a computerized data bank on technical skills and development expertise in administrative, professional and managerial personnel at Historically Black Colleges and Universities (HBCUs) to participate in programs administered by A.I.D. Under the A.I.D./NAFEO Agreement, NAFEO's activities include: Advising the A.I.D. "Joint Committed on HBCUs" on general strengths and capabilities of HBCUs and on international development resources available at the 116 HBCUs designated by the Agency as participants; Communicating with HBCUs regarding opportunities for participating in A.I.D.'s acquisition and assistance programs; Providing technical assistance to HBCUs in preparation and submission of proposals; Acting as HBCU liaison in the data gathering and dissemination process for individual institutions and scholars; and orienting HBCUs to A.I.D.'s overseas research, technical assistance and training needs. The annual reporting is once per respondent and will require 20 hours of each institution's time (not funded by the U.S. Government).

Reviewer: Francine Picoult (202) 395-7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: May 26, 1987.

Fred D. Allen,

Planning and Evaluation Division.

[FR Doc. 87-12662 Filed 6-3-87; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-274 (Sub-No. 1X)]

Chesapeake Western Railway; Exemption to Abandon Railroad Line in Rockingham County, VA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts Chesapeake Western Railway from the requirements of 49 U.S.C. 10903, *et seq.*, to abandon 3.7 miles of railroad line between Dayton and Bridgewater, in Rockingham County, VA, subject to standard employee protective conditions.

DATES: This exemption will be effective on July 6, 1987. Petitions to stay must be filed by June 15, 1987, and petitions for reconsideration must be filed by June 24, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB-274 (Sub-No. 1X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's Representative: Angelica D. Lloyd, 204 South Jefferson Street, Roanoke, VA 24042-0069.

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

SUPPLEMENTARY INFORMATION: Additional information is contained in the Comission'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 (202) 289-4357.

Decided: May 21, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Vice Chairman Lamboley concurred in the result with a

separate expression. Commissioner Simmons dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 87-12579 Filed 6-3-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 206X]

CSX Transportation, Inc.; Exemption and Discontinuance of Service in Tallahassee, Leon County, FL

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 1-mile line of railroad between milepost SPA 803.3 and milepost SPA 804.3 near Tallahassee, Leon County, FL. The Railway Labor Executives' Association seeks imposition of labor protective conditions.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted; and (2) 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 a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective July 4, 1987 (unless stayed pending reconsideration).

Petitions to stay must be filed by June 15, 1987, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by June 24, 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: Peter J. Shudtz, 100 North Charles Street, Baltimore, MD 21201.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: May 27, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-12578 Filed 6-3-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States v. Applied Circuits, Inc.,* Civil Action No. 86-0673 (ERK), was lodged with the United States District Court for the Eastern District of New York on May 12, 1987. The consent decree establishes a compliance program for the New York plant owned and operated by *Applied Circuits, Inc.,* to bring the plant into compliance with the Clean Water Act, 33 U.S.C. 1251 *et seq.,* and the applicable pretreatment regulations relating to the discharge of pollutants and requires payment of a civil penalty of $20,000.00.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States v. Applied Circuits, Inc.,* D.J. Ref. No. 90-5-1-1-2540.

The consent decree may be examined at the office of the United States Attorney, Eastern District of New York, U.S. Courthouse, 225 Cadman Plaza East, Brooklyn, New York 11201; at the Region II office of the Environmental Protection Agency, 27 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the 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 $2.10 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-12672 Filed 6-3-87; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

The following packages are being submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Subject: CLF Membership Application (3133-0063)

Abstract: In order to gain access to the Central Liquidity Fund facility a credit union must submit an application to join the CLF. The information collections are those required to establish a creditor-debtor relationship between the CLF and the credit union

Frequency: A credit union is required to submit only one application

Burden: The average time required to complete an application is one-half hour

Respondents: Any credit union may apply for CLF membership

Subject: Central Liquidity Facility Repayment Agreement (3133-0061)

Abstract: A credit union which has an outstanding loan with the CLF is required to submit a copy of its monthly financial statement to the CLF

Frequency: A copy of the credit union's month-end financial statement must be submitted monthly

Burden: One hour is required on the average to complete the requirement

Respondents: All unions with loans outstanding with the CLF

OMB desk officer: Robert Fishman

Copies of the above information collection clearance package may be obtained by calling the National Credit Union Administration, Administrative Office on (202) 357-1055.

Written comments and recommendations for the listed information collection should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington DC 20503.

Dated: May 27, 1987.

Rebecca Baker,

Acting Secretary of the NCUA Board.

[FR Doc. 87-12673 Filed 6-12673-87; 8:45 am]

BILLING CODE 7535-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment on the Arts; Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Overview Section) to the National Council on the Arts will be held on June 18, 1987, from 9:00 a.m.–5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics of discussion will be guidelines, Five Year Plan, Challenge and other policy issues.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsyvlania Avenue, NW, Washington DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

May 27, 1987.

[FR Doc. 87–12674 Filed 6–3–87; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Overview Section) to the National Council on the Arts will be held on June 16, 1987, from 10:00 a.m.—5:00 p.m. and on June 17, 1987 from 9:00 a.m.—4:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics of discussion will be guidelines and other policy issues.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

May 26, 1987.

[FR Doc. 87–12675 Filed 6–3–87; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Evaluation of Agreement State Radiation Control Programs; Final General Statement of Policy

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final general statement of policy.

SUMMARY: The Nuclear Regulatory Commission is adopting as a general statement of policy the recently revised "Guidelines for NRC Review of Agreement State Radiation Control Programs." This statement of policy is being issued to inform the States and the public of the criteria and guidelines which the Commission intends to use in its periodic evaluations of Agreement State programs.

FOR FURTHER INFORMATION CONTACT: Donald A. Nussbaumer, State, Local and Indian Tribe Programs, Office of Governmental and Public Affairs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7767.

SUPPLEMENTARY INFORMATION: On November 13, 1986 the NRC published in the **Federal Register** proposed minor revisions to its General Statement of Policy, "Guidelines for NRC Review of Agreement State Radiation Control Programs" (51 FR 41172). Interested persons were invited to submit written comments on the proposed revised policy statement which expired January 12, 1987. Seven written comments were received. After review and evaluation of the comments, the Commission has concluded the revisions can be published as proposed as a final general statement of policy. Minor editorial corrections have been made to the text for clarification.

Six letters offered comments on the proposed revision to the Policy Statement.

One comment letter was received from a public citizen, one from a utility health physicist, three from Agreement State radition control program directors and one from a non-Agreement State radiation control program director. A seventh comment letter, from a nuclear utility, commented on the **Federal Register** notice of the Commission's interest in the feasibility of developing a set of objective performance indicators for the various materials licenses regulated by the NRC and the Agreement States. The Commission plans to further explore this possibility and will seek opportunities to do so together with the Agreement States and, when appropriate, with additional opportunity for public input.

One comment was specific to a State (Pennsylvania) which recently entered a Memorandum of Understanding (MOU) with NRC (51 FR 43487). The MOU was viewed by the commentor as circumventing this Policy Statement. The referenced agreement is authorized by section 247i of the Atomic Energy Act as amendmed. State activities under it will not include regulatory functions that could be conducted pursuant to a Section 274b Agreement (which this Policy Statement covers).

One comment recommended elevating staffing level to Category I and another recommended elevating all the Indicators under Personnel to Category I. Commission staff, when developing the proposed revision, solicited Agreement State and regional staff views on moving staffing level to Category I. Supporting arguments were that staffing level deficiencies were frequently a major contributing cause of significant Category I deficiencies in State programs, e.g., lack of staff leads to inspection backlogs, and elevating the Indicator to Category I would help focus State attention on the underlying causes, e.g., inadequate funds for positions and low salaries. On the other hand, NRC staff routinely couple comments on staff deficiencies with comments on Category I problems, when linkage exists, in the comment letters to the State Health Officers. NRC staff will also comment on staffing deficiencies in the absence of Category I deficiencies if the staff believes the staffing deficiencies, if uncorrected, will lead to problems in Category I areas. Category I Indicators, as explained in the Policy Statement, have a direct bearing on health and safety and Category II Indicators address essential technical and administrative support which if not maintained may lead to Category I problems. As an example of a Category II Indicator the Policy Statement cites staffing level. Maintaining staffing level and other Personnel Indicators as Category II will be consistent with the

Policy's intended distinctions between Categories I and II.

One comment from a non-Agreement State recommended maintaining the separation of Status of Regulation and Compatibility of Regulations (as in the present Policy Statement). As explained in the November 13, 1986 **Federal Register** notice confusion has arisen over the distinctions between the two indicators. The proposal to combine them received no negative comments from the 28 Agreement States. Allied with this comment, was another recommending that draft language for State regulations should be provided to the States to enable them to meet the guidelines for maintaining compatible regulations within 3 years of adoption by NRC. Agreement States are routinely notified of NRC regulatory amendments that must be adopted to maintain compatibility. In many cases simple redrafting of the NRC requirement to meet State codification standards can be done easily by the States. When major NRC amendments are issued, such as the waste manifest rules contained in 10 CFR 20.311, NRC staff will prepare and make available to the States draft suggested State regulation language that incorporate NRC amendments. The Conference of Radiation Control Program Directors, Inc. with NRC and other Federal Agency assistance maintains model Suggested State Regulations (SSR) through a formal adoption process. Experience has shown that when State delays in adopting amendments are encountered, they have been as much related to inadequate staff resources that are needed to prepare amendments and the complex State administrative procedures for adopting regulations as they have been to the availability of timely issued SSR's. The Conference has not always adopted revisions within 3 years of NRC amendments; however, these other NRC measures provide adequate alternatives by which Agreement States can initiate actions to adopt conforming amendments to State regulations.

One comment from a non-Agreement State suggested that the guidelines should establish criteria for determining if a State's program is inadequate because of common defense and security (CD&S) considerations. As noted in the **Federal Register** notice on the proposed agreement with the State of Illinois (52 FR 2309), the Commission is considering the question of continued NRC regulation of a specific licensee in that State in the interest of the common defense and security of the United States. This CD&S issue emanates from the Commission's statutory obligations to protect the common defense and security as set forth in section 274m of the Act, as amended. That section makes clear that this obligation is separate from determining that the State's program is adequate to protect the public health and safety as required by section 274b.

One comment received from a non-Agreement State suggested that in adding to the guidelines, NRC should compare Agreement State programs to the Regional NRC materials programs. The implication of the comment is that the NRC regulatory program for materials should be reviewed in light of the same guidelines for the Agreement States. The Policy Statement has been developed specifically for the review of Agreement State programs as required by section 247j of the Act, as amended, which provides that NRC "shall periodically review such agreements and actions taken by the States under the agreements to insure compliance with the provisions of this section." Thus, the guidelines are not totally applicable to NRC programs. However, the periodic appraisal or assessments which NRC makes of its own materials regulatory program utilize comparable principles to those used in evaluating Agreement State programs.

One comment recommended development of guidelines for staff for Agreement State programs responsible for regulation of low-level waste disposal. Guidance in assessing staff technical capability needs and overall staffing requirements for States seeking low-level waste regulatory authority is available from NRC staff under NRC's Low-Level Waste Technical Assistance Program (51 FR 3866). NRC staff plans to prepare a supplementary Policy Statement addressing guidelines which are specific to Agreement State regulatory programs in this area.

Additional comments were received that addressed typographical errors by the **Federal Register** and offered minor editorial corrections. The latter have been incorporated.

Guidelines for NRC Review of Agreement State Radiation Control Programs, 1987

(Prepared by Office of Governmental and Public Affairs, U.S. Nuclear Regulatory Commission, Washington, DC 20555)

Introduction

Section 274 of the Atomic Energy Act was enacted by the Congress in 1959 to recognize the interests of the States in atomic energy, to clarify the respective responsibilities of State and Federal Governments, and to provide a mechanism for States to enter into formal agreements with the Atomic Energy Commission (AEC), and later the Nuclear Regulatory Commission (NRC), under which the States assume regulatory authority over byproduct, source, and small quantities of special nuclear materials, collectively referred to as agreement materials. The mechanism by which the NRC discontinues and the States assume regulatory authority over agreement materials is an agreement between the Governor of a State and the Commission. Before entering into an Agreement, the Governor is required to certify that the State has a regulatory program that is adequate to protect the public health and safety. In addition, the Commission must perform an independent evaluation and make a finding that the State's program is adequate from the health and safety standpoint and compatible with the Commission's regulatory program.

Current Guidelines

In 1981, the Commission published a major revision of the guide for review of Agreement State programs (two earlier revisions reflected primarily minor and editorial changes). These Guidelines constitute Commission policy in the form of a document entitled "Guidelines for NRC Review of Agreement State Radiation Control Programs." This document provides guidance for evaluation of operating Agreement State programs based on over 20 years of combined AEC–NRC experience in administering the Agreement State program. In 1985, Commission staff initiated minor updating, clarifying and editoral changes reflecting the experience gained with the 1981 policy statement. The revised document will be used by the NRC in its continuing program of evaluating Agreement State programs.

The "Guidelines" contain six sections, each dealing with one of the essential elements of a radiation control program (RCP) which are: Legislation and Regulations, Organization, Management and Administration, Personnel, Licensing, and Compliance. Each section contains (a) a summary of the general significance of the program elements, (b) indicators which address specific functions within the program element, (c) categories which denote the relative importance of each indicator, and (d) guidelines which delineate specific objectives or operational goals.

Categories of Indicators

The indicators listed in this document cover a wide range of program functions, both technical and administrative. It should be recognized that the indicators, and the guidelines under each indicator, are not of equal importance in terms of the fundamental goal of a radiation control program, i.e. protection of the public health and safety. Therefore, the indicators are categorized in terms of their importance to the fundamental goal of protecting the public health and safety. Two categories are used.

Category I—Direct Bearing on Health and Safety. Category I Indicators are:

- Legal Authority.
- Status and Compatibility of Regulations.
- Quality of Emergency Planning.
- Technical Quality of Licensing Actions.
- Adequacy of Product Evaluations.
- Status of Inspection Program.
- Inspection Frequency.
- Inspectors' Performance and Capability.
- Response to Actual and Alleged Incidents.
- Enforcement Procedures.

These indicators address program functions which directly relate to the State's ability to protect the public health and safety. If significant problems exist in one or more Category I indicator areas, then the need for improvements may be critical. Legislation and regulations together form the foundation for the entire program establishing the framework for the licensing and compliance programs. The technical review of license applications is the initial step in the regulatory process. The evaluation of applicant qualifications, facilities, equipment, and procedures by the regulatory agency is essential to assure protection of the public from radiation hazards associated with the proposed activities. Assuring that licensees fulfill the commitments made in their applications and that they observe the requirements set forth in the regulations is the objective of the compliance program. The essential elements of an adequate compliance program are (1) the conduct of onsite inspections of licensee activities, (2) the performance of these inspections by competent staff, and (3) the taking of appropriate enforcement actions. Another very important factor is the ability to plan for, respond effectively to, and investigate radiation incidents.

Category II—Essential Technical and Administrative Support. Category II Indicators are:

- Location of Radiation Control Program Within State Organization.
- Internal Organization of Radiation Control Program.
- Legal Assistance.
- Technical Advisory Committees.
- Budget.
- Laboratory Support.
- Administrative Procedures.
- Management.
- Office Equipment and Support Services.
- Public Information.
- Qualifications of Technical Staff.
- Staffing Level.
- Staff Supervision.
- Training.
- Staff Continuity.
- Licensing Procedures.
- Inspection Procedures.
- Inspection Reports.
- Confirmatory Measurements.

These indicators address program functions which provide essential technical and administrative support for the primary program functions. Good performance in meeting the guidelines for these indicators is essential in order to avoid the development of problems in one or more of the principal program areas, i.e. those that fall under Category I indicators. Category II indicators frequently can be used to identify underlying problems that are causing, or contributing to, difficulties in Category I indicators.

It is the NRC's intention to use these categories in the following manner. In reporting findings to State management, the NRC will indicate the category of each comment made. If no significant Category I comments are provided, this will indicate that the program is adequate to protect the public health and safety and is compatible with the NRC's program. If one or more significant Category I comments are provided, the State will be notified that the program deficiencies may seriously affect the State's ability to protect the public health and safety and that the need of improvement in particular program areas is critical. The NRC would request an immediate response. If, following receipt and evaluation, the State's response appears satisfactory in addressing the significant Category I comments, the staff may offer findings of adequacy and compatibility as appropriate or defer such offering until the State's actions are examined and their effectiveness confirmed in a subsequent review. If additional information is needed to evaluate the State's actions, the staff may request the information through follow-up correspondence or perform a follow-up or special, limited review. NRC staff may hold a special meeting with appropriate State representatives. No significant items will be left unresolved over a prolonged period. The Commission will be informed of the results of the reviews of the individual Agreement State programs and copies of the review correspondence to the States will be placed in the NRC Public Document Room. If the State program does not improve or if additional significant Category I deficiencies have developed, a staff finding that the program is not adequate will be considered and the NRC may institute proceedings to suspend or revoke all or part of the Agreement in accordance with section 274j of the Act.

Category II comments concern functions and activities which support the State program and therefore would not be critical to the State's ability to protect the public. The State will be asked to respond to these comments and the State's actions will be evaluated during the next regular program review.

It should be recognized that the categorization pertains to the significance of the overall indicator and not to each of the guidelines within that indicator. For example, "Technical Quality of Licensing Actions" is a Category I indicator. The review of license applications for the purpose of evaluating the applicant's qualifications, facilities, equipment, and procedures is essential to assuring that the public health and safety is being protected. One of the guidelines under this indicator concerns prelicensing visits. The need for such visits depends on the nature of the specific case and is a matter of judgment on the part of the licensing staff. The success of a State program in meeting the overall objective of the indicator does not depend on literal adherence to each recommended guideline.

The "Guideines for NRC Review of Agreement State Radiation Control Progams" will be used by the NRC staff during its onsite reviews of Agreement State programs. Such reviews are conducted at approximately 18 month intervals, or less if deemed necessary. If there are no significnat Category I comments, the staff may extend the interval between reviews to approximately 24 months.

In making a finding of adequacy, the NRC considers areas of the State program which are critical to its primary function, i.e., protection of the public health and safety. For example, a State that is not carrying out its inspection program, or fails to respond to significant radiological incidents would not be considered to have a program adequate to protect the public health

and safety. Basic radiation protection standards, such as exposure limits, also directly affect the States' ability to protect public health and safety. The NRC feels that it is important to strive for a high degree of uniformity in technical definitions and terminology, particularly as related to units of measurement and radiation dose. Maximum permissible doses and levels of radiation and concentrations of radioactivity in unrestricted areas as specified in 10 CFR Part 20 are considered to be important enough to require States to be essentially equivalent in this area in order to protect public health and safety. Certain procedures, such as those involving the licensing of products containing radioactive material intended for interstate commerce, also require a high degree of uniformity. If no serious performance problems are found in an Agreement State program and if its standards and program procedures are compatible with the NRC program, a finding of adequacy and compatibility is made.

Program Element: Legislation and Regulations

The effectiveness of any State radiation control program (RCP) is dependent upon the underlying authority granted the RCP in State legislation, and implemented in the State regulations. Regulations provide the foundation upon which licensing, inspection, and enforcement decisions are made. Regulations also provide the standards and rules within which the regulated must operate. Periodic revisions are necessary to reflect changing technology, improved knowledge, current recommendations by technical advisory groups, and consistency with NRC regulations. Procedures for providing input to the NRC on proposed changes to NRC regulations are necessary to assure consideration of the State's interests and requirements. The public and, in particular, affected classes of licensees should be granted the opportunity and time to comment on rule changes.

Indicators and Guidelines

Legal Authority (Category I)

• Clear statutory authority should exist, designating a State radiation control agency and providing for promulgation of regulations, licensing, inspection and enforcement.

• States regulating uranium or thorium recovery and associated wastes pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) must have statutes enacted to establish clear authority for the State to carry out the requirements of UMTRCA.

Status and Compatibility of Regulations (Category I)

• The State must have regulations essentially identical to 10 CFR Part 19, Part 20 (radiation dose standards, effluent limits, waste manifest rule and certain other parts), Part 61 (technical definitions and requirements, performance objectives, financial assurances) and those required by UMTRCA, as implemented by Part 40.

• The State should adopt other regulations to maintain a high degree of uniformity with NRC regulations.

• For those regulations deemed a matter of compatibility by NRC, State regulations should be amended as soon as practicable but no later than 3 years.

• The RCP has established procedures for effecting appropriate amendments to State regulations in a timely manner, normally within 3 years of adoption by NRC.

• Opportunity should be provided for the public to comment on proposed regulation changes (Required by UMTRCA for uranium mill regulation.)

• Pursuant to the terms of the Agreement, opportunity should be provided for the NRC to comment on draft changes in State regulations.

Program Element: Organization

The effectiveness of any State RCP may be dependent upon its location within the overall State organizational structure. The RCP should be in a position to compete effectively with other health and safety programs for budget and staff. Program management must have access to individuals or groups which establish health and safety program priorities. The RCP should be organized to achieve a high degree of efficiency in supervision, work functions, and communications.

Indicators and Guidelines

Location of Radiation Control Program Within State Organization (Category II)

• The RCP should be located in a State organization parallel with comparable health and safety programs. The Program Director should have access to appropriate levels of State management.

• Where regulatory responsibilities are divided between State agencies, clear understandings should exist as to division of responsibilities and requirements for coordination.

Internal Organization of Radiation Control Program (Category II)

• The RCP should be organized with the view toward achieving an acceptable degree of staff efficiency, place appropriate emphasis on major program functions, and provide specific lines of supervision from program management for the execution of program policy.

• Where regional offices or other government agencies are utilized, the lines of communication and administrative control between these offices and the central office (Program Director) should be clearly drawn to provide uniformity in licensing and inspection policies, procedures and supervision.

Legal Assistance (Category II)

• Legal staff should be assigned to assist the RCP or procedures should exist to obtain legal assistance expeditiously. Legal staff should be knowledgeable regarding the RCP program, statutes, and regulations.

Technical Advisory Committees (Category II)

• Technical Committees, Federal Agencies, and other resource organizations should be used to extend staff capabilities for unique or technically complex problems.

• A State Medical Advisory Committee should be used to provide broad guidance on the uses of radioactive drugs in or on humans. The Committee should represent a wide spectrum of medical disciplines. The Committee should advise the RCP on policy matters and regulations related to use of radioisotopes in or on humans.

• Procedures should be developed to avoid conflict of interest, even though Committees are advisory. This does not mean that representatives of the regulated community should not serve on advisory committees or not be used as consultants.

Program Element: Management and Administration

State RCP management must be able to meet program goals through strong, direct leadership at all levels of supervision. Administrative procedures are necessary to assure uniform and appropriate treatment of all regulated parties. Procedures for receiving information on radiological incidents, emergency response, and providing information to the public are necessary. Procedures to provide feedback to supervision on status and activities of the RCP are necessary. Adequate facilities, equipment and support

services are needed for optimum utilization of personnel resources. Laboratory support services should be administered by the RCP or be readily available through established administrative procedures.

In order to meet program goals, a State RCP must have adequate budgetary support. The total RCP budget must provide adequate funds for salaries, travel costs associated with the compliance program, laboratory and survey instrumentation and other equipment, and other administrative costs. The program budget must reflect annual changes in the number and complexity of applications and licenses, and the increase in costs due to normal inflation.

Indicators and Guidelines

Quality of Emergency Planning (Category I)

- The State RCP should have a written plan for response to such incidents as spills, overexposures, transportation accidents, fire or explosion, theft, etc.
- The Plan should define the responsibilities and actions to be taken by State agencies. The Plan should be specific as to persons responsible for initiating response actions, conducting operations and cleanup.
- Emergency communication procedures should be adequately established with appropriate local, county and State agencies. Plans should be distributed to appropriate persons and agencies. NRC should be provided the opportunity to comment on the Plan while in draft form.
- The plan should be reviewed annually by Program staff for adequacy and to determine that content is current. Periodic drills should be performed to test the plan.

Budget (Category II)

- Operating funds should be sufficient to support program needs such as staff travel necessary to the conduct of an effective compliance program, including routine inspections, followup or special inspections (including pre-licensing visits), and responses to incidents and other emergencies, instrumentation and other equipment to support the RCP, administrative costs in operating the program including rental charges, printing costs, laboratory services, computer and/or word processing support, preparation of correspondence office equipment, hearing costs, etc. as appropriate.
- Principal operating funds should be from sources which provide continuity and reliability, i.e., general tax, license fees, etc. Supplemental funds may be obtained through contracts, cash grants, etc.

Laboratory Support (Category II)

- The RCP should have laboratory support capability inhouse, or readily available through established procedures, to conduct bioassays, analyze environmental samples, analyze samples collected by inspectors, etc. on a priority established by the RCP.

Administrative Procedures (Category II)

- The RCP should establish written internal policy and administrative procedures to assure that program functions are carried out as required and to provide a high degree of uniformity and continuity in regulatory practices. These procedures should address internal processing of license applications, inspection policies, decommissioning and license termination, fee collection, contacts with communication media, conflict of interest policies for employees, exchange-of-information and other functions required of the program. Administrative procedures are in addition to the technical procedures utilized in licensing, and inspection and enforcement.

Management (Category II)

- Program management should receive periodic reports from the staff on the status of regulatory actions (backlogs, problem cases, inquires, regulation revisions).
- RCP management should periodically assess workload trends, resources and changes in legislative and regulatory responsibilities to forecast needs for increased staff, equipment, services and fundings.
- Program management should perform periodic reviews of selected license cases handled by each reviewer and document the results. Complex licenses (major manufacturers, large scope-Type A Broad, potential for significant releases to environment) should receive second party review (supervisory, committee, consultant). Supervisory review of inspections, reports and enforcement actions should also be performed.
- When regional offices or other government agencies are utilized, program management should conduct periodic audits of these offices.

Office Equipment and Support Services (Category II)

- The RCP should have adequate secretarial and clerical support. Automatic typing and Automatic Data Processing and retrieval capability should be available to larger (greater than 300–400 licenses) programs. Similar services should be available to regional offices, if utilized.
- Professional staff should not be used for fee collection and other clerical duties.

Public Information (Category II)

- Inspection and licensing files should be available to the public consistent with State administrative procedures. It is desirable, however, that there be provisions for protecting from public disclosure proprietary information and information of a clear personal nature.
- Opportunity for public hearings should be provided in accordance with UMTRCA and applicable State administrative procedure laws.

Program Element: Personnel

The RCP must be staffed with a sufficient number of trained personnel. The evaluation of license applications and the conduct of inspections require staff with in-depth training and experience in radiation protection and related subjects. The staff must be adequate in number to assure licensing, inspection, and enforcement actions of appropriate quality to assure protection of the public health and safety. Periodic training of existing staff is necessary to maintain capabilities in a rapidly changing technological environment. Program management personnel must be qualified to exercise adequate supervision in all aspects of a State radiation control program.

Indicators and Guidelines

Qualifications of Technical Staff (Category II)

- Professional staff should have bachelor's degree or equivalent training in the physical and/or life sciences. Additional training and experience in radiation protection for senior personnel including the director of the radiation protection program should be commensurate with the type of licenses issued and inspected by the State.
- Written job descriptions should be prepared so that professional qualifications needed to fill vacancies can be readily identified.

Staffing Level (Category II)

- Professional staffing level should be approximately 1–1.5 person-year per 100 licenses in effect. RCP must not have less than two professionals available with training and experience to operate RCP in a way which provides continuous coverage and continutiy.
- For States regulating uranium mills tailings, current indications are that 2–

2.75 professional person-years' of effort, including consultants, are needed to process a new mill license (including in situ mills) or major renewal, to meet requirements of Uranium Mill Tailings Radiation Control Act of 1978. This effort must include expertise in radiological matters, hydrology, geology, and structural engineering.[1]

Staff Supervisor (Category II)

- Supervisory personnel should be adequate to provide guidance and review the work of senior and junior personnel.
- Senior personnel should review applications and inspect licenses independently, monitor work of junior personnel, and participate in the establishment of policy.
- Junior personnel should be initially limited to reviewing license applications and inspecting small programs under close supervision.

Training (Category II)

- Senior personnel should have attended NRC core courses in licensing orientation, inspection procedures, medical practices and industrial radiography practices. (For mill States, mill training should also be included.)
- The RCP should have a program to utilize specific short courses and workshops to maintain appropriate level of staff technical competence in areas of changing technology.

Staff Continuity (Category II)

- Staff turnover should be minimized by combinations of opportunities for training, promotions, and competitive salaries.
- Salary levels should be adequate to recruit and retain persons of appropriate professional qualifications. Salaries should be comparable to similar employment in the geographical area.
- The RCP organization structure should be such that staff turnover is minimized and program continuity maintained through opportunities for promotion. Promotion opportunities should exist from junior level to senior level or supervisory positions. There also should be opportunity for periodic salary increases compatible with experience and responsibility.

Program Element: Licensing

It is necessary in licensing byproduct, source, and special nuclear materials that the State regulatory agency obtain information about the proposed use of nuclear materials, facilities and equipment, training and experience of personnel, and operating procedures appropriate for determining that the applicant can operate safely and in compliance with the regulations and license conditions. An acceptaable licensing program includes: preparation and use of internal licensing guides and policy memoranda to assure technical quality in the licensing program (when appropriate, such as in small programs, NRC Guides may be used); prelicensing inspection of complex facilities; and the implementation of administrative procedures to assure documentation and maintenance of adequate files and records.

Indicators and Guidelines

Technical Quality of Licensing Actions (Category I)

- The RCP should assure that essential elements of applications have been submitted to the agency, and that these elements meet current regulatory guidance for describing the isotopes and quantities to be used, qualifications of persons who will use material, facilities and equipment, and operating and emergency procedures sufficient to establish the basis for licensing actions.
- Prelicensing visits should be made for complex and major licensing actions.
- Licenses should be clear, complete, and accurate as to isotopes, forms, quantities, authorizes uses, and permissive or restrictive conditions.
- The RCP should have procedures for reviewing licenses prior to renewal to assure that supporting information in the file reflects the current scope of the licensed program.

Adequacy of Product Evalautions (Category I)

- RCP evalautions of manufacture's or distributor's data on sealed sources and devices outlined in NRC, State or appropriate ANSI Guides, should be sufficient to assure integrity and safety for users.
- The RCP should review manufacturer's information in labels and brochures relating to radiation health and safety, assay, and calibration procedures for adequacy.
- Approval documents for sealed source or device designs should be clear, complete and accurate as to isotopes, forms, quantities, uses, drawing identifications, and permissive or restrictive conditions.

Licensing Procedures (Category II)

- The RCP should have internal licensing guides, checklists, and policy memoranda consistent with current NRC practice.
- License applicants (including applicants for renewals) should be furnished copies of applicable guides and regulatory positions.
- The present compliance status of licensees should be considered in licensing actions.
- Under the NRC Exchange-of-Information program, evaluation sheets, seravice licenses, and licenses authorizing distribution to general licensees should be submitted to NRC on a timely basis.
- Standard license conditions comparable with current NRC standard license conditions should be used to expedite and provide uniformity in the licensing process.
- Files should be maintained in an orderly fashion to allow fast, accurate retrieval of information and documentation of discussions and visits.

Program Element: Compliance

Periodic inspections of licensed operations are essential to assure that activities are being conducted in compliance with regulatory requirements and consistent with good safety practices. The frequency of inspections depends on the amount and the kind of material, the type of operation licensed, and the results of previous inspections. The capability of maintaining and retrieving statistical data on the status of the compliance program is necessary. The regulatory agency must have the necessary legal authority for prompt enforcement of its regulations. This may includes, as appropriate, administrative remedies, orders requiring corrective action, suspension or revocation of licenses, the impounding of materials, and the imposing of civil or criminal penalties.

Indicators and Guidelines

Status of Inspection Program (Category I)

- State RCP should maintain an inspection program adequate to assess licensee compliance with State regulations and license conditions.
- The RCP should maintain statistics which are adequate to permit Program Management to assess the status of the inspection program on a periodic basis. Information showing the number of inspections conducted, the number overdue, the length of time overdue and the priority categories should be readily available.
- At least semiannual inspection planning for number of inspections to be performed, assignments to senior vs.

[1] Additional guidance is provided in the Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement (46 FR 7540, 36969 and 48 FR 33376).

junior staff, assignments to regions, identification of special needs and periodic status reports. When backlogs occur, the program should develop and implement a plan to reduce the backlog. The plan should identify priorities for inspections and establish target dates and milestones for assessing progress.

Inspection Frequencey (Category I)

• The RCP should establish an inspection priority system. The specific frequency of inspections should be based upon the potential hazards of licensed operations, e.g., major processors, and industrial radiographers should be inspected approximately annaully-smaller or less hazardous operations may be inspected less frequently. The minimum inspection frequency including for initial inspections should be no less than the NRC system.

Inspectors' Performance and Capability (Category I)

• Inspectors should be competent to evalaute health and safety problems and to determine compliance with State regulations. Inspectors must demonstrate to supervision an understanding of regulations, inspection guides, and policies prior to independently conducting inspections.

• The compliance supervisor (may be RCP manager) should conduct annual field evaluations of each inspector to assess performance and assure application of appropriate and consistent policies and guides.

Response to Actual and Alleged Incidents (Category I)

• Inquiries should be promptly made to evaluate the need for onsite investigations.

• Onsite investigations should be promptly made of incidents requiring reporting to the Agency in less that 30 days. (10 CFR 20.403 types.)

• For those incidents not requiring reporting to the Agency in less than 30 days, investigations should be made during the next scheduled inspection.

• Onsite investigations should be promptly made of non-reportable incidents which may be of sifgnificant public interest and concern, e.g., transportation accidents.

• Investigations should include indepth reviews of circumstances and should be completed on a high priority basis. When appropriate, investigations should include reenactments and time-study measurements (normally within a few days). Investigation (or inspection) results should be documented and enforcement action taken when appropriate.

• State licensees and the NRC be notified of pertinent information about any incident which could be relevant to other licensed operations (e.g., equipment failure, improper operation procedures).

• Information on incidents involving failure of equipment should be provided to the agency responsible for evaluation of the device for an assessment of possible generic design deficiency.

• The RCP should have access to medical consultants when needed to diagnose or treat radiation injuries. The RCP should use other technical consultants for special problems when needed.

Enforcement Procedures (Category I)

• Enforcement Procedures should be sufficient to provide a substantial deterrent to licensee noncompliance with regulatory requirements. Provisions for the levying of monetary penalties are recommended.

• Enforcement Procedures should be issued within 30 days following inspection and should employ appropriate regulatory language clearly specifying all items of noncompliance and health and safety matters identified during the inspection and referencing the appropriate regulation or license condition being violated.

• Enforcement letters should specify the time period for the licensee to respond indicating corrective actions and actions taken to prevent re-occurrence (normally 20–30 days). The inspector and compliance supervisor should review licensee responses.

• Licensee responses to enforcement letters should be promptly acknowledged as to adequacy and resolution of previously unresolved items.

• Written procedures should exist for handling escalated enforcement cases of varying degrees.

• Impounding of material should be in accordance with State administrative procedures.

• Opportunity for hearings should be provided to assure impartial administration of the radiation control program.

Inspection Procedures (Category II)

• Inspection guides consistent with current NRC guidance, should be used by inspectors to assure uniform and complete inspection practices and provide technical guidance in the inspection of licensed programs. NRC Guides may be used if properly supplemented by policy memoranda, agency interpretations, etc.

• Written inspection policies should be issued to establish a policy for conducting unannounced inspections, obtaining corrective action, following up and closing out previous violations, interviewing workers and observing operations, assuring exit interviews with management, and issuing appropriate notification of violations of health and safety problems.

• Procedures should be established for maintaining licensees' compliance histories.

• Oral briefing of supervisors or the senior inspector should be performed upon return from nonroutine inspections.

• For States with separate licensing and inspection staffs procedures should be established for feedback information to license reviewers.

Inspection Reports (Category II)

• Findings of inspections should be documented in a report describing the scope of inspections, substantiating all items of noncompliance and health and safety matters, describing the scope of license's programs, and indicating the substance of discussions with license management and licensee's response.

• Reports should uniformly and adequately document the result of inspections including confirmatory measurements, status of previous noncompliance and identify areas of the licensee's program which should receive special attention at the next inspection. Reports should show the status of previous noncompliance and the results of confirmatory measurements made by the inspector.

Confirmatory Measurements (Category II)

• Confirmatory Measurements should be sufficient in number and type to ensure the licensee's control of materials and to validate the licensee's measurements.

• RCP instrumentation should be adequate for surveying license operations (e.g., survey meters, air samples, lab counting equipment for smears, identification of isotopes, etc).

• RCP instrumentation should include the following types: GM Survey Meter, 0–50 mr/hr; Ion Chamber Survey Meter, several r/hr; micro-R-Survey meter; Neutron Survey Meter, Fast and Thermal; Alpha Survey Meter, 0–1000,000 c/m; Air Samples, Hi and Lo Volume; Lab Counters, Detect 0.001 uc/wipe; Velometers; Smoke Tubes; Lapel Air samplers.

• Instrument calibration services or facilities should be readily available and appropriate for instrumentation used. Licensee equipment and facilities should not be used unless under a service

contact. Exceptions for other State Agencies, e.g., a State University, may be made.

• Agency instruments used for surveys and confirmatory measurements should be calibarated within the same time interval as required of the licensee being inspected.

Dated at Washington, DC this 27 day of May 1987.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 87–12636 Filed 6–3–87;8:45am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–24520; File No. SR–CBOE–87–18]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc., relating to Modified Trading System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 4, 1987, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The proposed rule change provides for a two-year pilot of a modified trading system ("MTS"). The pilot, which would allow MTS to be placed in new options classes and foreign currency option classes, will provide for a special appointment committee to select designated primary market-makers ("DPM"). DPM's will be selected on the basis of such factors as capital, experience, operational capacity, and indicia of maket quality. DPM appointments may be terminated if (1) the DPM has not performed satisfactorily appointed, or (2) there is a material change in the financial or operational condition, or personnel of a DPM. The Committee also has the authority to (1) take necessary steps to appoint interim DPMs, and (2) discontinue use of a DPM in a particular option class if trading activity becomes highly active or if the trading environment would otherwise be better accommodated by the market-maker system without a DPM. DPMs who are removed may seek review of the decision of the Appointment Committee.

DPMs will act as market-maker, represent booked orders, (in the place of the Order Book Official), and may act as floor broker in representing non-discretionary orders not eligible for the Exchange's book. The obligations of DPMs include all obligations as market-maker, order book official, or floor broker. The DPM is also responsible to (1) assure accuracy and firmness of quotations, (2) administer and participate in automated updating of quotations, (3) be present continuously at the trading post and effect trades with a high degree of correlation with overall trading for each option series, (4) participate in any applicable automatic execution system, and (5) resolve trading disputes, subject to Floor Official review. The normal trading rules will apply, except that the DPM shall (1) accord priority to orders he represents as floor broker, (2) have a right to participate pro rata with the trading crowd in trades that take place at the DPM's principal bid or offer, and (3) be limited in effecting transactions for his own account that would result in electing stop orders. The DPM and the Exchange will split the book revenues, in proportion to be established by the Appointment Committee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The modified trading system pilot ("MTS") is expected to determine whether a specialist-type system will enhance the Exchange's ability to service its customers in the following ways: Increase the depth and liquidity of markets, create long-term commitments to option classes, generate greater flexibility in responding to varying market conditions, provide current quotes in all series and encourage a continuous commitment to trade all option series.

The Exchange has reservations whether a traditional specialist system is the best way to conduct an auction market. The Exchange, however, recognizes that there may be benefits in a particular option class from providing a member with incentives to sustain a market.

MTS is written as a three-year pilot program, which should allow sufficient time to evaluate whether to continue the program. The pertinent provisions of the rule are summarized as follows. The program may be used in any option class open for trading after May 1, 1987 or in forign currency options. Existing options classes and replacements thereof will continue to be traded on the usual exchange competitive market-maker trading system except to the extent authorized for MTS by a membership vote. See Rule 8.13(a).

The selection and removal process for designated primary market-makers ("DPM") will be conducted by the MTS Appointment Committee. This committee, which will be comprised of the Vice-Chairman of the Exchange, the chairman of the Market Performance Committee, and nine other members to be nominated by the Exchange Nominating Committee and appointed by the Board. The composition of the committee is expected to assure a balanced approach to the appointment and removal of DPM's. The members of the committee will be appointed to staggered two-year terms to insure continuity in the process. See Rule 8.13(b)(1). Appointments will go to the condidate who appears to be best able to perform the functions of DPM in the subject options class or classes. Factors to be considered include: capital, experience with trading, willingness to participate in Exchange marketing programs, operational capacity, support personnel, history of adherence to Exchange rules and criteria specified as DPM responsibilities, and trading crowd evaluations under Rule 8.12. Reviews will be conducted each quarter, but may be conducted more frequently.

The Appointment Committee has broad discretion to appoint interim DPMs in the event that there is a vacancy or other situation calling for an interim appointment. The MTS system can also be terminated in a particular option class by the Appointment Committee, primarily based upon changes to the trading environment such that reversion to the usual Exchange

market-maker system is warranted operationally. See Rule 8.13(b)(7).

The DPM's responsibilities are set forth in Rule 8.13(c)(1)–(10). In addition to the normal obligations of a floor broker and a market-maker the DPM is responsible for the dissemination of accurate market quotations, the honoring of market quotations, the algorithm for AutoQuote, regular presence at the trading post, participation in automatic execution systems as applicable, and resolution of trading disputes in accordance with Exchange rules. The DPM must accord priority to orders he represents as floor broker over his activity as market-maker. The DPM has the right as market-maker to participate pro rata with the trading crowd in trades that take place at the DPM's principal bid or offer. The DPM may not charge brokerage in any transaction in which he participates as market maker. The DPM is designated to disclose book information under Exchange Rule 7.8.

The DPM is limited in effecting stop or stop limit orders which may be in the book or which he represents as floor broker. He may only be party to the election of a stop or stop limit order when his bid or offer is made with the approval of a Floor Official and has the effect of bettering the market, and when he guarantees that the stop or stop limit order will be executed at the same price as the electing sale. See Rule 8.13(c)(10).

The DPM shall also meet satisfactory levels of staffing of the book function. All revenues for representing orders on the book in appointed classes shall accrue to the Exchange, and shall be split on an Exchange-determined basis with the DPM. It is expected that the Exhange will provide personnel to the DPM for staffing of the book function. The function, however, is the responsibility of the DPM. The charge for Exchange staff will be taken into account in the splitting of book revenues with the DPM.

The Exchange believes that the proposed pilot will enhance its overall market-making capabilities and will serve to improve the mechanism of a free and open market, to maintain a fair and orderly market and to protect investors. For these reasons, the statutory basis for the proposed rule change is section 6(b)(5) of the Securities Exchange Act of 1934 (the Act).

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

A membership vote was concluded on April 29, 1987. The results were 672.8 in favor of the MTS proposal and 305.3 against the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action.

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington,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 the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the rule number in the caption above and should be submitted by June 25, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 27, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–12755 Filed 6–3–87; 8:45 am]

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[Release No. 34–24519; File No. SR-NSCC–87–6]

National Securities Clearing Corp.; Relating to an Amendment Concerning Reconfirming and Repricing Fails

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78S(b)(1), notice is hereby given that on May 19, 1987 NSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will amend NSCC's SCC Division Procedures by including the description of the Reconfirmation and Pricing Service ("RECAPS") attached as Exhibit 1.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Once trades have been compared at NSCC, if settlement is not conducted through a continuous net settlement ("CNS") system, the parties to such trades must arrange for the settlement of the individual transactions or balance orders. If the trades do not settle in a timely fashion and fails occur, the status of such trades can become somewhat uncertain, and there could be consequences to a broker-dealer's net capital. *See* SEC Rule 15c3–1.

The purpose of the change is to adopt, for a one-time pilot use, a system to reconfirm and reprice fails. The pilot system will be used for fails in municipal securities for a limited

number of participants.[1] If the pilot is successful, NSCC anticipates that it will propose to institute the service permanently, will conduct the fail clearance procedure on a regularized basis, will expand the types of securities eligible for the service, and will provide the service to all members.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No comments on the proposed rule change have been solicited or received. NSCC will notify the Securities and Exchange Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the 1934 Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the 1934 Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW. Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 25, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 27, 1987.

Jonathan G. Katz,

Secretary.

Exhibit 1

Re-Confirmation and Pricing Service

The Re-Confirmation and Pricing Service ("RECAPS") is offered by NSCC as a fail clearance system. It will be used initially on a pilot basis for fails in municipal securities at least 15 business days old. The RECAPS pilot will occur over a weekend, with the exact dates to be determined by NSCC. NSCC members participating in the pilot ("Pilot Participants") are listed on Exhibit 1. The procedures for the pilot are as follows:

In order for NSCC to have ample time to price accurately the Municipal Bonds included in RECAPS, on the Tuesday before the weekend of the pilot each Pilot Participant shall provide to NSCC a list of CUSIP numbers of the bonds the Participant anticipates submitting to RECAPS.

On Friday evening, at the time and in the manner established by NSCC, Pilot Participants shall submit RECAPS fail information in the form established by NSCC. Only fails with other Pilot Participants should be submitted.

On Saturday morning at the time and in the manner established by NSCC, NSCC will produce RECAPS Contracts containing standard contract categories (*i.e.*, compared, uncompared and advisory columns). After receipt of the RECAPS Contracts, participants will have an opportunity for trade correction or resolution, including the deletion of compared and uncompared trades and the acceptance of advisories. Also on Saturday, Pilot Participants may submit As-Of trades. As-of trades will be compared only if there is an exact match; no trade resolution process will be available.

On Sunday, NSCC will issue a second set of RECAPS Contracts, reflecting the additional imput received on Saturday. On Sunday, NSCC also will issue RECAPS Receive and Deliver Reports listing all reconfirmed trades, and RECAPS receive and deliver instructions for such reconfirmed trades, with settlement scheduled for the following day, Monday. The value of the receive and deliver instructions will be the current market price, as described below.

The RECAPS Receive and Deliver Report will list, among other things, the difference between the original contract price and current market price for each reconfirmed trade.[1] The current market price will include accrued interest from the previous interest payment date to the new settlement date (Monday). If a fail was open over an interest payment date, the two parties to the trade will be required to settle that interest payment outside RECAPS, although the parties could use NSCC's Dividend Settlement Service.

The RECAPS Receive and Deliver Report also will include the aggregate value from the original fails, the aggregate value of the RECAPS instructions (*i.e.*, the current market price of the reconfirmed trades) and the difference between the two, or the net cash adjustment. The net cash adjustment will settle on the day following the issuance of the Receive and Deliver Report, *i.e.* Monday, and will be included as part of Pilot Participants' daily money settlement with NSCC. RECAPS, however, will not be a guaranteed service of NSCC, so that if NSCC fails to receive payment from a Pilot Participant, NSCC, in its discretion, may reverse in whole or part any credit previously given to any Pilot Participant who is the contra side to a trade reconfirmed and repriced through RECAPS.

[FR Doc. 87–12709 Filed 6–3–87; 8:45 am]

BILLING CODE 8010–01–M

[1] NSCC has submitted a no-action request to the Commission staff requesting that reconfirmed and repriced trades be treated as new transactions for the purposes of Rule 15c3–1. See letter dated April 20, 1987 from Michael Simon, Vice President, and Associate General Counsel, NSCC, to Michael Macchiaroli, Assistant Director, Division of Market Regulation.

[1] In the event that a price is not available for a reconfirmed trade, the receive and deliver instructions will be issued with an updated settlement date and will be noted as a "Special Trade," with the value on the instructions being the amount at which the trade previously was compared.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

May 29, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Grand Auto, Inc.
Common Stock, No Par Value (File No. 7–0154)
Hexcel Corporation
Common Stock, No Par Value (File No. 7–0155)
Hotel Investors Trust
Shares of Beneficial Interest Paired with 1 share Hotel Inv. Cp (File No. 7–0156)
Hubbell, Inc.
Class A, Common Stock, $5.00 Par Value (File No. 7–0157)
Hubbell, Inc.
Class B, Common Stock, $5.00 Par Value (File No. 7–0158)
Huffy Corp.
Common Stock, $1.00 Par Value (File No. 7–0159)
Hunt Manufacturing Co.
Common Stock, $.10 Par Value (File No. 7–0160)
IMO Delval, Inc.
Common Stock, No Par Value (File No. 7–0161)
Interpublic Group of Companies, Inc.
Common Stock, $.10 Par Value (File No. 7–0162)
LeaRonal, Inc.
Common Stock, $1.00 Par Value (File No. 7–0163)
Leisure Technology, Inc.
Common Stock, $.10 Par Value (File No. 7–0164)
Leslie Fay Companies, Inc.
Common Stock, $1.00 Par Value (File No. 7–0165)
Lomas Mortgage Corporation
Common Stock, $.01 Par Value (File No. 7–0166)
Mauna Loa Macadamia Partners, L.P.
Units, No Par Value (File No. 7–0167)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 19, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–12749 Filed 6–3–87; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

May 29, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(l)(B) of the Securities Exchange Act of 1934 and Rule 12f-l thereunder, for unlisted trading privileges in the following stocks:

Moore Medical Corporation
Common Stock, $01 Par Value (File No. 7–0164)
Mortgage Growth Investors
Common Stock, $1.00 Par Value (File No. 7–0165)
New Plan Realty Trust
Shares of Beneficial Interest, No Par Value (File No. 7–0166)
OEA, Inc.
Common Stock, $.10 Par Value (File No. 7–0167)
Olsten Corporation
Common Stock, $.10 Par Value (File No. 7–0168)
Pannill Knitting Co., Inc.
Common Stock, $.01 Par Value (File No. 7–0169)
Property Capital Trust
Common Stock, No Par Value (File No. 7–0170)
Questar Corporation
Common Stock, $2.50 Par Value (File No. 7–0171)
RTE Corporation
Common Stock, $1.00 Par Value (File No. 7–0172)
Robertson (H.H.) Co.
Common Stock, $.10 Par Value (File No. 7–0173)
Royal International Optical Corporation
Common Stock, $.10 Par Value (File No. 7–0174)
Shaw Industries, Inc.
Common Stock, No Par Value (File No. 7–0175)
Southern Indiana Gas & Electric Co.
Common Stock, No Par Value (File No. 7–0176)
Southwestern Energy Co.
Common Stock, $2.50 Par Value (File No. 7–0177)
Standard Motor Products, Inc.
Common Stock, $2.00 Par Value (File No. 7–0178)
Strategic Mortgage Investment, Inc.
Common Stock, $.01 Par Value (File No. 7–0179)
Sun Energy Partnes, L.P.
Depository Units, No Par Value (File No. 7–0180)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 19, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extentions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–12750 Filed 6–3–87; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

May 29, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Tasty Baking Co.
Common Stock, $.50 Par Value (File No. 7–0168)
Tokheim Corporation
Common Stock, No Par Value (File No. 7–0169)
Turner Equity Investors, Inc.
Common Stock, $.01 Par Value (File No. 7–0170)
Valspar Corporation
Common Stock, $.50 Par Value (File No. 7–0171)
Vermont American Corporation
Common Stock, $1.00 Par Value (File No. 7–0172)
Vulcan Materials Co.

Common Stock, $1.00 Par Value (File No. 7–0173)
Wackenhut Corporation
Common Stock, $.10 Par Value (File No. 7–0174)
Wallace Computer Services, Inc.
Common Stock, $1.00 Par Value (File No. 7–0175)
Washington Real Estate Investment Trust
Shares of Beneficial Interest, No Par Value (File No. 7–0176)
Weingarten Realty, Inc.
Common Stock, $1.00 Par Value (File No. 7–0177)
Zale Corporation
Common Stock, $1.00 Par Value (File No. 7–0178)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 19, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–12751 Filed 6–3–87; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

May 29, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

National Semiconductor Corporation
Warrants (Expires May, 1992) (File No. 7–0148)
Excel Industries
Common Stock, No Par Value (File No. 7–0149)
Catalyst Energy Corporation
Common Stock, $0.10 Par Value (File No. 7–0150)
A.H. Belo Corporation (Del.)
Common Stock, $1.67 Par Value (File No. 7–0151)
Stone Container Corporation
Common Stock, $1.00 Par Value (File No. 7–0152)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 19, 1987, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–12752 Filed 6–3–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15759; File No. 812–6536]

General Homes Mortgage Securities, Inc., et al.; Application

May 29, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

Applicant: General Homes Mortgage Securities, Inc. ("GHMS") on its own behalf and on behalf of future entities, and its parent, General Homes Mortgage Corporation ("General Homes").

Relevant Sections of the Act: Exemption requested under section 6(c) of the Act from all provisions of the Act.

Summary of Application: Applicants seek a conditional order exempting GHMS and future entities from all provisions of the Act in connection with proposed issuances of collateralized mortgage obligations and sale of beneficial interests in certain issuing entities.

Filing Date: November 18, 1986; amended, March 11 and April 15, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, an order disposing of the application will be issued. 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 June 23, 1987. Requests must be in writing, setting forth the nature of your interest, the reasons for the request, and the issues contested. Applicants should be served with a copy of the request, either personally or by mail, and the request should also be sent to the Secretary of the SEC, along with proof of service (by affidavit or, in the case of an attorney-at-law, 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; Applicants, 7322 Southwest Freeway, Houston, Texas 77074.

FOR FURTHER INFORMATION CONTACT: George Martinez, Staff Attorney (202) 272–3040 or H.R. Hollock, 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 SEC's Public Reference Branch in person or the SEC's commercial copies (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

A. Representations relating to Bond issuances

1. General Homes, a publicly held corporation, in one of the largest builders of single-family residences in the nation. GHMS was incorporated in Delaware as an indirect, wholly-owned, limited purpose finance subsidiary of General Homes. Under its certificate of incorporation, GHMS may not engage in activities other than issuing collateralized mortgage obligations ("Bonds") issuable in series and, in connection therewith, acquiring, owning, holding, and pledging mortgage-backed certificates and mortgage loans and transacting business that is incident and necessary or appropriate to the foregoing. GHMS has filed the application on its own behalf and on behalf of other entities (whether in the form of corporations, partnerships, or trusts) controlled or established by General Homes or its subsidiaries that, in the future, may be formed and may

engage in the same types of offerings as GHMS ("Future Issuers" and together with GHMS, "Applicants"). General Homes participates in the application as an additional applicant and joins in each of the representations and statements made therein. The certificates of incorporation or equivalent constitutive instruments of the Future Issuers will limit such entities" respective activities to activities substantially the same as or similar to those of GHMS, provided that Applicant may establish one or more trusts ("Trusts") in which beneficial interests ("Residual Interests") will be sold (Bonds and Residual Interests, collectively, "Securities").

2. The Bonds will be issued in series. Each series will be collateralized by mortgage assets ("Mortgage Assets") together with (a) reinvestment earnings, if any, derived from payments on the Mortgage Assets, (b) one or more reserve funds, if any, and (c) if applicable, other amounts (Mortgage Assets together with (a), (b) and (c), collectively, "Series Assets"). In the case of a corporation, partnership or trust, the Mortgage Assets will consist of (i) mortgage-backed certificates ("GNMA Certificates") guaranteed by the Government National Mortgage Association ("GNMA"), (ii) Guaranteed Mortgage Pass-Through Certificates ("FNMA Certificates") issued and guaranteed by the Federal National Mortage Association ("FNMA"), (iii) Mortgage Participation Certificates ("FHLMC Certificates") issued and guaranteed by the Federal Home Loan Mortgage Corporation ("FHLMC"), (iv) conventional mortgage pass-through securities ("Private Certificates") ((i), (ii), (iii) and (iv), collectively, "Certificates"), (v) promissory notes secured by liens on real estate ("mortgages"), or (vi) a combination of the foregoing. In the case of a Trust, the Mortgage Assets will be limited to (i) GNMA Certificates, (ii) FNMA Certificates and (iii) FHLMC Certificates. Applicant does not have, nor is it expected to have in the future, any significant assets other than the Series Assets securing and outstanding series.

3. Each series will consist of one or more classes of Bonds with fixed or variable interest rates. If a series has two or more classes, such classes may differ in, among other things, priority of payment, sequence of payment and terms of payment. Each series will be structured so that the cash flow generated by the Series Assets will be sufficient to provide for the full and timely payment of scheduled distributions on the Bonds of such series.

4. The Securities of a series may be interests in a "real estate mortgage investment conduit" ("REMIC"), pursuant to the provisions of the Internal Revenue Code of 1986, in which case such Securities will be "regular interests" or "residual interests" in a REMIC. Alternatively, the Securities of a series may be issued pursuant to a decision by Applicants to forego electing REMIC status for such series.

5. Each series will be issued pursuant to an indenture between Applicants and an independent trustee ("Trustee"), as supplemented by one or more supplemental indentures (collectively, "Indenture"). Each Indenture will be qualified under the Trust Indenture Act of 1939, unless an appropriate exemption is available.

6. The terms of a series of Bonds may provide that, under limited circumstances, Applicants, in their discretion, will be able to redeem all or a portion of such Bonds at a price that will be determined separately for each series, but currently is anticipated to be at least equal to the outstanding principal amount of such Bonds, plus accrued interest. If payments on the Bonds of a series are made other than on a monthly basis, the terms of such Bonds may provide for mandatory or optional redemptions to the extent that payments on the related Mortgage Assets cannot be invested at a rate that will provide sufficient income to pay interest on such Bonds before the next payment date. It the terms of a series of Bonds provide for optional redemption, it is expected that, in lieu of redemption, Applicants would be required to make a cash deposit with the applicable Trustee to ensure that the amount available for payment of interest on the Bonds of such series on the next payment date is sufficient. Aside from the foregoing, the terms of a series of Bonds may also provide that Applicants may redeem one or more classes of Bonds, or a specified portion of such class or classes, on or after a date specified for each class. Except to the extent that the Indenture for a series of Bonds may require or allow the related Trustee or a specified percentage of the holders of such Bonds ("Bondholders") to liquidate the Series Assets upon an event of default, a Bondholder of a series will not under any circumstances be entitled to compel the liquidation of the Series Assets securing such Bonds in order to redeem the Bonds while they are outstanding.

B. Representations relating to Residual Interests issuances

1. Applicants may form one or more Trusts for the limited purpose of issuing one or more series of Bonds and selling the Residual Interests in such Trusts. Each Trust will be established pursuant to a separate deposit trust agreement ("Deposit Trust Agreement") between Applicants and an independent trustee for the holders of the Residual Interests of such Trust ("Owner Trustee"). The Owner Trustee will not purchase may Residual Interest itself, but will function as a legal stakeholder for the assets of the related Trust.

2. Under each Deposit Trust Agreement, the Owner Trustee will be obligated to collect all amounts released from the lien of the Indenture by the related Trustee to pay all expenses of the Trust, including its own fees, and to remit the balance pro rata to the owners of the Residual Interests in such Trust. Each Deposit Trust Agreement will also contemplate that the Owner Trustee may enter into a consulting agreement whereby a third party, which may be an affiliate of Applicants, may provide certain management services in connection with the issuance and administration of the related Bonds.

3. The ability of Applicants to sell Residual Interests in each Trust will not alter the payment of cash flows under the related Indenture, including the amounts to be deposited in the collection account or any reserve fund created pursuant to such Indenture to support payments of principal of and interest on the related Bonds. Each Trust (1) will hold no substantial assets other than the Series Assets for the Bonds issued by such Trust; (2) may not purchase or otherwise deal in any property other than the Series Assets, and (3) may not issue any securities other than the Securities.

4. It is asserted that GHMS are the Future Issuers (whether a corporation, partnership, trust or Trust) are not the type of entities that were intended to be regulated under the Act and that their limited present and future activities do not require the protection of the Act. On the basis of the foregoing, the granting of the requested exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It is requested that an order be entered, pursuant to section 6(c) of the Act, exempting GHMS and all Future Issuers from all provisions of the Act, subject to the stated conditions described below.

Conditions to Order

(1) Any class of Bonds featuring an adjustable or variable interest rate will have a set maximum interest rate (an interest rate cap).

(2) At the time of the transfer to the Trustee of the collateral securing a series of Bonds one or more classes of which bear interest at a variable or adjustable rate, as well as during the life of such Bonds, the scheduled payments of principal and interest to be received by the Trustee on the Mortgage Assets for such series of Bonds, together with any reinvestment income thereon and assets available in any reserve funds, will be sufficient to make all scheduled payments of principal of and interest on the Bonds of such series then outstanding, assuming the maximum interest rate on each class of adjustable or variable interest rate Bonds of such series. Such collateral will be paid down as the mortgages constituting or underlying the Mortgage Assets securing such series of Bonds are repaid, but will not (except in the limited circumstances described elsewhere herein pertaining to substitution of collateral) be released from the lien of the related Indenture before the completion of all scheduled payments to the Bondholders required by such Indenture.

A. Conditions relating to Bond issuances by a corporation, partnership or trust

(1) Each series of Bonds will be registered under the Securities Act of 1933 ("1933 Act"), unless offered in a transaction exempt from registration pursuant to section 4(2) of the 1933 Act;

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. In addition, the Mortgage Assets will be limited to (i) GNMA Certificates, (ii) FNMA Certificates, (iii) FHLMC Certificates, (iv) Private Certificates, and (v) mortgages;

(3) If new Mortgage Assets are substituted for the original Mortgage Assets, the substitute Mortgage Assets must: (i) Be of equal or better quality than the Mortgage Assets replaced; (ii) have similar payment terms and cash flow as the Mortgage Assets replaced; (iii) be insured or guaranteed to the same extent as the Mortgage Assets replaced; and (iv) meet the conditions set forth in item (2) above and items (4) and (6) below. In addition, new Mortgage Assets may not be substituted for more than 20% of the aggregate face amount of the mortgages initially pledged as Mortgage Assets or for more than 40% of the aggregate face amount of Certificates initially pledged as Mortgage Assets. New Private Certificates may be substituted for Private Certificates originally pledged as Mortgage Assets only in the event of default, threatened default, late payment, or defect in the Mortgage Assets being replaced. New mortgages may be substituted for mortgages originally pledged as Mortgage Assets only in the event of default, threatened default, late payment, or defect in the Mortgage Assets being replaced. In no event may any new Mortgage Assets be substituted for any substituted Mortgage Assets;

(4) The Series Assets securing each series will be registered in the name of the applicable Trustee, or assigned to the applicable Trustee. To the extent that such assets consist of tangible assets, the Trustee for a series of Bonds, or an independent custodian on behalf of such Trustee, will physically hold the Series Assets securing such series. Neither the custodian nor Trustee may be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act; as so defined, "Affiliate") of Applicant or of the master servicer or originating lender of any mortgages that are pledged as Mortgage Assets. If there is no master servicer, no servicer of those mortgages may be an Affiliate of the custodian or Trustee. The Trustee will have a first-priority perfected security or lien interest in and to all the Series Assets;

(5) Each series of Bonds will be rated in one of the two highest bond rating categories by Standard & Poor's Corporation or Moody's Investors Service, Inc. The Bonds will not be "redeemable securities" within the meaning of section 2(a)(32) of the Act;

(6) The master servicer or servicer of any mortgage (including mortgages underlying Private Certificates) may not be an Affiliate of the applicable Trustee. Any master servicer and servicer of mortgages will be approved by FNMA or FHLMC as an "eligible seller-servicer" of conventional, residential mortgage loans. Any agreement governing the servicing of such mortgages will obligate the servicer to provide substantially the same services with respect to such mortgages as it is then currently required to provide in connection with the servicing of mortgages insured by the Federal Housing Administration, guaranteed by the Veterans Administration, or eligible for purchase by FNMA or FHLMC; and

(7) No less often than annually, a firm of independent public accountants will audit the books and records of Applicant and, in addition, will report on whether the anticipated payments of principal and interest on the Series Assets continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the applicable Trustee.

B. Conditions relating to Bond issuances by a Trust

(1) Each series of Bonds will be registered under the Securities Act of 1933 ("1933 Act") unless offered in a transaction exempt from registration pursuant to section 4(2) of the 1933 Act;

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. In addition, the Mortgage Assets will be limited to (i) GNMA Certificates, (ii) FNMA Certificates, and (iii) FHLMC Certificates;

(3) If new Mortgage Assets are substituted for the original Mortgage Assets, the substitute Mortgage Assets will (i) be of equal or better quality than the Mortgage Assets replaced; (ii) have similar payment terms and cash flow as the Mortgage Assets replaced; (iii) be insured or guaranteed to the same extent as the Mortgage Assets replaced; and (iv) meet the conditions set forth in paragraphs (2) and (4). In addition, substitute Mortgage Assets will not be substituted for more than 40% of the aggregate face amount of the Mortgage Assets initially pledged. In no event may any new Mortgage Assets be substituted for any substitute Mortgage Assets.

(4) The Series Assets securing each series will be registered in the name of the applicable Trustee, or assigned to the applicable Trustee. To the extent that such assets consist of tangible assets, the Trustee for a series of Bonds, or an independent custodian on behalf of such Trustee, will physically hold the Series Assets securing such series. Neither the custodian nor the Trustee may be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act) of Applicant. The Trustee will be provided with a first priority perfected security or lien interest in and to all Series Assets;

(5) Each series of Bonds will be rated in one of the two highest bond rating categories by Standard & Poor's Corporation or Moody's Investors Service, Inc. The Bonds will not be "redeemable securities" within the meaning of section 2(a)(32) of the Act;

(6) No less often than annually, a firm of independent public accountants will audit the books and records of the Applicant and in addition will report on whether the anticipated payments of

principal and interest on the Mortgage Assets continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Trustee.

C. Conditions relating to Residual Interests issuances by a Trust

In addition to the following conditions, further representations in this area are contained in the applications:

(1) Applicants may sell Residual Interests in a Trust to a limited number of sophisticated institutional investors (in no event more than 100) in transactions exempt from the registration requirements of the 1933 Act pursuant to section 4(2) thereof. Such institutional investors would have prior experience in making investments in mortgage-related securities or real estate ("Eligible Institutions").

(2) The subsequent transfer of the Residual Interests will also be limited to private placements to Eligible Institutions. Each Eligible Institution will be required to represent that it is purchasing such Residual Interest for investment purposes, and the Deposit Trust Agreement relating to each Trust will further prohibit the transfer of any certificates for such Residual Interests if there would be more than 100 owners of such certificates at any time.

(3) No holder of a controlling interest in any Trust (as the term "control" is defined in Rule 405 under the 1933 Act) will be affiliated with either (a) any custodian that may hold the Series Assets on behalf of the applicable Trustee or (b) any nationally recognized statistical rating agency rating the Bonds issued by such Trust. None of the owners of a Residual Interest in any Trust will be an affiliate of the applicable Trustee.

(4) Except to the extent permitted by the limited right to substitute Mortgate Assets described herein, it will not be possible for the owners of the Residual Interests to alter the Series Assets initially deposited into the related Trust, and in no event will such right to substitute Mortgate Assets result in a diminution in value or quality of the Series Assets.

(5) Neither the holders of the Residual Interests of any of the Trusts, the Owner Trustee nor the Trustee will be able to impair the security afforded by the Series Assets to the holders of the related Bonds.

(6) The sale of the Residual Interests in each Trust will not alter the payment of cash flows under the related Indenture, including the amounts to be deposited in any collection account or reserve fund created pursuant to such Indenture to support payments of principal of and interest on the related Bonds.

(7) The interests of the Bondholders in any of the proposed transactions will not be compromised or impaired by the ability of Applicant to sell Residual Interests in each Trust, and there will not be a conflict of interest between the Bondholders and the holders of the Residual Interests in the Trust.

(8) Unless otherwise required by an agency rating the Bonds issued by a Trust, such Bonds will not be initially secured by Certificates with a collateral value that exceeds 110% of the aggregate original principal amount of such Bonds.

(9) The election of REMIC status for any Trust will have no effect on the level of the expenses that will be incurred by such Trust. Any Trust for which REMIC status has been elected will provide that all administrative fees and expenses in connection with the administration of the Trust will be paid or provided for in a manner satisfactory to the agency or agencies rating the Bonds.

(10) Any Trust for which REMIC status has been elected will provide for the payment of administrative fees and expenses by one of the methods described in the application or a combination of one or more of such methods. Each Trust will ensure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which of the methods are selected by such Trust.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-12753 Filed 6-3-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24401]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

May 28, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/or available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 22, 1987 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration (s), as filed or as amended, may be granted and/or permitted to become effective.

The Connecticut Light and Power Company (70-7268)

The Connecticut Light and Power Company ("CL&P"), Selden Street, Berlin Connecticut 06037, and electric and gas utility subsidiary of Northeast Utilities, a registered holding Company, has filed a post-effective amendment to its application-declaration pursuant to Section 6(b) of the Act, and Rules 40, 42 and 50 thereunder.

By prior Commission order, CL&P was authorized to issue and sell up to $250 million principal amount of its first and refunding mortgage bonds ("Bonds"), in one or more series, through June 30, 1987, and subject to a revised dividend restriction (HCAR No. 24227, October 30, 1986). On April 28, 1987, CL&P issued and sold $75 million principal amount of those Bonds, and $175 million principal amount of the Bonds remain unsold. CL&P now proposes to extend the time period in which the remaining Bonds may be issued and sold from June 30, 1987 to December 31, 1988, under the same terms and conditions, but excluding the revised dividend restriction provision.

Vermont Yankee Nuclear Power Corporation (70-7380)

Vermont Yankee Nuclear Power Corporation ("Vermont Yankee"), P.O. Box 169, Ferry Road, Brattleboro, Vemont 05301, a nuclear generating subsidiary of New England Electric System and Northeast Utilities, both registered holding companies, has filed a declaration with this Commission subject to section 6(a) and 7 of the Act.

Vermont Yankee proposes to extend the authority expiring on August 31, 1987 to issue and sell up to $16 million of short-term notes to banks (which would

exceed 5% of the principal amount and par value of other securities of Vermont Yankee) through December 31, 1988 (HCAR No. 24025, February 21, 1986). The interest rates will not exceed the lender's prime or base rates, as defined, and certain of the banks require commitment fees equal to not more than 0.5% respectively of the lines. Assuming full borrowings under the lines and a prime rate of 7.5% per annum, the highest effective rate paid by Vermont Yankee for borrowings from any of the banks would be 8.04%.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-12720 Filed 6-3-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

[Docket 43940]

Galaxy Airlines, Inc., Continuing Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-captioned proceeding will be held on June 29, 1987, at 10:00 a.m. (local time), in Room 5332, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590, before the undersigned administrative law judge.

Dated at Washington, DC, May 29, 1987.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 87-12696 Filed 6-3-87; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

Environmental Impact Statement; Hudson County, NJ

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Hudson County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Russell Eckloff, Jr., District Engineer, 25 Scotch Road, Second Floor, Trenton, New Jersey 08628, Telephone: (609) 989-2280.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Jersey Department of Transportation (NJDOT), will be preparing an Environmental Impact Statement on a proposal to widen Route US 1&9 (Tonnelle Avenue) in Hudson County, New Jersey. The proposed project would consist of the construction of an additonal travel lane and outside shoulder on both the north and southbound sides of the roadway.

In addition to the widening, several interchanges will be improved. These improvements will include the replacement of the existing at-grade intersections at Manhattan Avenue/County Road and Secaucus Road with full grade-separate interchanges. The limits of this proposed project are from the Tonnelle Circle to Route NJ 3, a total length of approximately 2.9 miles.

The purpose of this project is to relieve congestion on Tonnelle Avenue. Tonnelle Avenue primarily acts as an arterial highway, handling traffic from various roads, such as County Road, Manhattan Avenue and Secaucus Road, and providing access to major routes, such as the New Jersey Turnpike, Interstate Routes 95 and 78, and Route US 3. The extremely high volumes on this roadway create delays to emergency services and generally cause unsafe conditions to motorists. The existing road operates with two lanes in each direction with extensive commercial development along the entire length of the roadway.

Alternatives under consideration include the proposed widening and the no-action alternative. The FHWA and NJDOT will consult with other goverment agencies on their areas of responsibility. Information meetings will also be held for the public in the project area.

(Catalog of Federal Domestic Assistance Program Number 20.2.05, Highway Research Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: May 27, 1987.

John J. Kessler, Jr.

Division Administrator Trenton, New Jersey.

[FR Doc. 87-12763 Filed 6-3-87; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

[Docket No. S-809]

Chestnut Shipping Company and Margate Shipping Co.; Application for Waiver

By application dated March 31 and May 5, 1987, Chestnut Shipping Company and Margate Shipping Company request a waiver of section 804(a) of the Merchant Marine Act, 1936, as amended (Act), for a period of four years, to permit a related company, Timbo Shipping Ltd., a Liberian corporation, to own and to operate the 23-year old tanker CHESAPEAKE (50,223 DWT) under foreign-flag on charter to Amerada Hess Corporation (Amerada Hess). Amerada Hess would trade the vessel from the Middle East and/or the Mediterranean and/or Europe to the U.S. east coast, carrying products for their own account.

This applicaiton and supporting materials may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such application within the meaning of section 804 of the Act and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington D. C. 20590. Comments must be received no later than 5:00 P.M. on June 10, 1987. This notice is published as a matter of discretion. The Maritime Administrator will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies)

Dated: June 2, 1987.

By order of the Maritime Administration.

James E. Saari,

Secretary.

[FR Doc. 87-12834 Filed 6-3-87; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 15-87]

Treasury Notes, Series K-1992

Washington, May 28, 1987.

The Secretary announced on May 27, 1987, that the interest rate on the notes designated Series K-1992, described in Department Circular—Public Debt Series—No. 15-87 dated May 20, 1987, will be 8-¼ percent. Interest on the notes will be payable at the rate of 8-¼ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-12640 Filed 6-3-87; 8:45 am]

BILLING CODE 4810-40-M

Fiscal Service

[Dept. Circ. 570, 1986 Rev., Supp. No. 18]

Surety Companies Acceptable on Federal Bonds; American Fidelity Insurance Co.

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officer should annotable their reference copies of the Treasury Circular 570, 1986 Revision, on page 23927 to reflect this addition:

American Fidelity Insurance Company. Business address: 2000 Classen Center, Oklahoma City, OK 73106. Underwriting limitation [b] *$975,000.* Surety licensee [c]. AR, CA, CO, FL, GA, ID, IN, IA, KS, KY, LA, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, VA, WA, WI, WY. Incorporated in: Oklahoma. Federal Process agents [d].

Certificates of Authority expire on June 30 each year, unless revoked prior to the date. The certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to Underwriting Limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Department of Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20226, telephone (202) 634–2214.

Dated: May 29, 1987.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 87–12639 Filed 6–3–87; 8:45 am]

BILLING CODE 4810–35–M

UNITED STATES INFORMATION AGENCY

New Directions Advisory Committee: Abolishment

The New Directions Advisory Committee was established in January, 1982 for the purpose of advising USIA management on world events. The Committee has provided advisory services for USIA since its inception.

Recently, scheduling conflicts have made it increasingly difficult to meet. Therefore, it has been determined that the New Directions Advisory Committee be abolished. Chairman Norman Podhoretz has agreed to remain available for advice and consultation on an "as needed" basis.

Dated: May 29, 1987.

Louise G. Wheeler,

Director, Private Sector Committees.

[FR Doc. 87–12677 Filed 6–3–87; 8:45 am]

BILLING CODE 8230–01–M

VETERANS ADMINISTRATION

Special Medical Advisory Group; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Special Medical Advisory Group will be held on June 25 and 26, 1987. The session on June 25 will be held at the Sheraton Carlton Hotel, 923 Sixteenth Street, NW., Washington, DC 20006, and the session on June 26 will be held in the Omar Bradley Conference Room (10th floor) at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. In addition, the Subcommittee on Alternative Methods of Care will hold a session on June 25 in Room 817 at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington DC 20420 convening at 1 p.m. The purpose of the Special Medical Advisory Group is to advise the Administrator and Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Veterans Administration's Department of Medicine and Surgery.

The session on June 25 (held at the Sheraton Carlton Hotel) will convene at 6 p.m. and the session on June 26 will convene at 8 a.m. All sessions will be open to the public up to the seating capacity of the rooms. Because this capacity is limited, it will be necessary for those wishing to attend to contact Kathy Eller, Secretary, Office of the Chief Medical Director, Veterans Administration Central Office (phone 202/233–5156) prior to June 22, 1987.

Dated: May 26, 1987.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 87–12638 Filed 6–3–87; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 107
Thursday, June 4, 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).

COMMISSION ON CIVIL RIGHTS

PLACE: 1121 Vermont Avenue, NW., Room 512, Washington, DC 20425.

DATE AND TIME: Thursday, June 11, 1987, 9:00 a.m.–5:00 p.m.

STATUS OF MEETING: Open to the public

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Panel Presentation on School Desegregation Report
IV. Rules and Procedures for the Conduct of Commission Meetings
V. Proposed Projects for FY 88/89
VI. Report of Commissioner Subcommittee on Regional Conferences
VII. SAC Recharters
VIII. Briefing by SAC Chairs
IX. Staff Director's Report
A. Status of Earmarks
B. Personnel Report
C. Activity Report

PERSON TO CONTACT FOR FURTHER INFORMATION: Thomas Olson, Press and Communications Division (202) 376–8105.

William H. Gillers,
Solicitor.

[FR Doc. 87–12838 Filed 6–2–87; 3:01 pm]
BILLING CODE 6335–01–M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, June 9, 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, June 11, 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 BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds.
Draft Advisory Opinion 1987–11—George J. Kubat on behalf of Committee to Re-Elect Senator Edward Zorinsky.
Draft Advisory Opinion 1987–12—Amiel Cueto on behalf of Committee to Elect Jerry Costello.
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. 87–12837 Filed 6–2–87; 3:37 pm]
BILLING CODE 6715–01–M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 9:00 a.m., Tuesday 9 June 1987.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW.

STATUS: Open to public observation.

MATTERS TO BE CONSIDERED: Rulemaking on appropriate units in the health care industry.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, National Labor Relations Board, Washington, DC 20570, Telephone: (202) 254–9430.

Dated, Washington, DC, 2 June 1987.
By direction of the Board.

John C. Truesdale,
Executive Secretary, National Labor Relations Board.

[FR Doc. 87–12853 Filed 6–2–87; 2:55 pm]
BILLING CODE 7545–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 19629 May 26, 1987]

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, May 21, 1987.

CHANGE IN THE MEETING: Deletion.

The following item will not be considered at an open meeting on Friday, May 29, 1987, at 2:00 p.m.

Consideration of a release announcing amendments to the Commission's financial responsibility rules involving the treatment of repurchase and reverse repurchase agreements by registered broker-dealers. The amendments affect Securities Exchange Act Rules 15c3–1, 15c3–3, 17a–3 and 17a–13. For further information, please contact Michael P. Jamroz at (202) 272–2398 or Michael A. Macchiaroli at (202) 272–2904.

Commissioner Fleischman, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted of postponed, please contact:

Patrick Daugherty at (202) 272–3077.

Janathan G. Katz,
Secretary.
May 28, 1987.

[FR Doc. 87–12815 Filed 6–2–87; 8:45 am]
BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 52, No. 107
Thursday, June 4, 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 COMMERCE

National Bureau of Standards

[Docket No. 60626-7048]

Approval of Federal Information Processing Standard 5-2, Codes for the Identification of the States, the District of Columbia and the Outlying Areas of the United States, and Associated Areas

Correction

In notice document 87-12148 beginning on page 19904 in the issue of Thursday, May 28, 1987, make the following corrections:

1. On page 19904, in the second column, in the subject heading, in the second line, "5-3" should read "5-2".

2. On page 19905, in the first column, in the first bold heading, in the second line, "5-3" should read "5-2".

3. On the same page, in the third column, in the first paragraph, in the ninth line, insert "Alpha" after "State".

4. On page 19906, in the first column, in Table 1, in the entry for Wisconsin, the FIPS state numeric code should read "55".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 300

[OST Docket No. 1; Amdt. 300-7]

Aviation Proceedings; Rules of Conduct in DOT Proceedings

Correction

In rule document 87-11519 beginning on page 18903 in the issue of Wednesday, May 20, 1987, make the following correction:

On page 18904, in the second column, in the first complete paragraph, in the second line, "certification" should read "clarification".

BILLING CODE 1505-01-D

federal register

Thursday
June 4, 1987

Part II

Environmental Protection Agency

40 CFR Part 372

Toxic Chemical Release Reporting; Community Right-To-Know; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPTS-400002, FRL-3183-9]

Toxic Chemical Release Reporting; Community Right-To-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule publishes the uniform toxic chemical release reporting form as required by section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986. Section 313 requires that owners and operators of certain facilities that manufacture, import, process, or otherwise use certain toxic chemicals report annually their releases of those chemicals to any environmental media.

DATE: Written comments on this proposed rule should be submitted by August 3, 1987.

ADDRESS: Comments should bear the docket control number OPTS-400002 and should be submitted to: TSCA Public Information Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

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 St., SW., Washington, DC 20460, (202-554-1411).

SUPPLEMENTARY INFORMATION:

I. Authority

The Agency is proposing this rule pursuant to sections 313 and 328 of Title III of the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499. Title III is also cited as "The Emergency Planning and Community Right-To-Know Act of 1986." Section 313 of Title III requires owners and operators of covered facilities to report annually their releases of listed toxic chemical substances. Section 313 also specifies that EPA must publish a uniform toxic chemical release form by June 1, 1987. Section 328 provides EPA with the authority necessary to promulgate such regulations as may be necessary to carry out the purposes of Title III.

II. Background

A. Overview of Section 313

On October 17, 1986, the President signed into law the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99-499. The major function of this legislation is to amend and reauthorize provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). However, Title III of SARA is a free-standing statute (not part of CERCLA) that is itself titled "The Emergency Planning and Community Right-To-Know Act of 1986." In general, Title III contains authorities relating to emergency planning, emergency notification, community right-to-know on chemicals, and a toxic chemical release inventory.

The focus of this proposed rule is the toxic chemical release inventory provision contained in section 313 of Title III. Section 313 requires owners and operators of certain facilities that manufacture, process, or otherwise use a listed chemical to report annually their releases of such chemicals to the environment. The reports are to be sent to both EPA and the State in which the facility is located. The basic purpose of this provision is to make available to the public information about total annual releases of toxic chemicals from manufacturing facilities in their community.

For emissions reporting purposes, section 313(c) mandates an initial list of "Toxic Chemicals Covered" that is composed of 329 entries, including 20 categories of chemicals. This list is a combination of lists of chemicals used by the States of Maryland and New Jersey for emissions reporting under their individual right-to-know laws. Section 313 (d) and (e) authorize the Administrator to modify by rulemaking the list of "toxic chemicals covered" either as a result of EPA's self-initiated review or in response to petitions. For more information on EPA's policy and guidance with respect to such petitions see the notice published in the **Federal Register** of February 4, 1987 (52 FR 3479).

Section 313(g) specifically requires EPA to publish a uniform toxic chemical release reporting form by June 1, 1987. If such a form is not published, then owners and operators must report by letter and include the specific information identified in section 313(g).

As part of the community right-to-know emphasis of Title III, section 313 requires EPA to make the emissions-related information available to the public. In particular, section 313(i) requires EPA to develop a computer data base containing this toxic chemical release information and to make it accessible by telecommunications on a cost reimbursable basis.

Covered facilities are also required to submit a copy of the Section 313 report to the State. Some States may choose to have their State Emergency Response Commission (as established under section 301 of Title III) be the focal point for receipt and management of these reports. Under Title III these Commissions are designated as recipients of reports and notifications required by sections 302, 304, 311 and 312. However, section 313 does not designate any specific agency as the recipient of the reports submitted to the States. Therefore, some States may choose to direct such reporting to their environmental or public health departments. Whatever the decision, States also have a responsibility under Title III to make this information available to the public.

Section 313(h) states that the toxic chemical release information reported to EPA and the States is intended to provide information to Federal, State, and local governments and the public, including citizens of communities surrounding covered facilities. To the extent consistent with trade secret considerations in section 322, the information reported is intended to inform persons about releases of toxic chemicals to the environment. The information is also intended to assist government agencies, researchers, and other persons in the conduct of research and data gathering; to aid in the development of regulations, guidelines, and standards: and for other similar purposes.

B. Summary of Public Participation

EPA held pre-proposal public meetings on January 8 and 9, 1987 to discuss the section 313 reporting form and related reporting requirements. Prior to these meetings, EPA made materials available to the public which included a draft form with instructions, a draft paper that discussed form-related issues, a paper describing an exercise conducted by EPA staff to test various potential versions of a reporting form, and a copy of section 313.

More than 100 persons, representing a wide range of interests, attended the 2 days of public meetings. The discussion at the meetings focused on the potential reporting elements that the form could contain and the associated reporting issues. Comments received during these meetings proved valuable in shaping the proposed requirements depicted in this proposed rule. The docket for this rulemaking contains comments received at these meetings as well as written comments received at, and subsequent to, the public meetings.

In addition to the public meetings described above, EPA staff have met,

upon request, with representatives of companies and trade associations likely to be affected by the rule, with representatives of public interest groups, and with State government representatives. Summaries of such meetings are also available for review in the public docket.

III. Chemicals Covered by the Proposed Rule

A. The Mandated List of Chemicals

Section 313(c) of Title III states that the toxic chemicals subject to the requirements of the section are those chemicals on the list in Senate Environment and Public Works Committee Print No. 99–169, including any revisions to this list made by EPA. The list in the above-referenced Committee Print contains 309 entries, with associated Chemical Abstracts Service (CAS) registry numbers, plus 20 additional category entries (without specific CAS numbers).

Subpart C of this proposed rule contains those chemicals and categories. Specifically, § 372.45 of Subpart C contains the chemicals and categories organized in several different ways. The entries that have CAS numbers are listed twice. One list is in alphabetical order and the second list is in CAS number order. These chemical entries are presented in this manner so that persons who must refer to the list may more easily locate a chemical they manufacture, process or otherwise use. A third list contains the chemical categories, which are arranged in alphabetical order.

The effective date column in the listings refers to the beginning calendar year for which release data are to be reported. This proposed rule contains the initial listing of the chemicals. Therefore, all chemicals have an effective date of January 1, 1987. If EPA adds a chemical to the list, the effective date column will contain a date corresponding to the first calendar year for which release data are to be reported, in accordance with section 313(d)(4) of Title III.

B. Proposed Technical Modifications to the List

EPA is proposing to incorporate certain technical modifications and clarifications to the list of chemicals and chemical categories.

1. *Duplicative Listings Relating to Compounds.* Upon reviewing the Committee Print, EPA noted that certain of the listed chemical categories appear to be duplicated in the CAS number specific list. For example, "Copper and compounds" appears with the CAS number 7440–50–8 and "Copper compounds" also appears as a chemical category listing. The reason for the apparent duplication is that the Committee Print listed the parent metal, copper, with its attendant CAS number. This same pattern holds true for the other metal and metal compound listings. Therefore, EPA is proposing a technical modification to that part of the chemical listing containing CAS numbers. This change removes the "and compounds" phrase designations where the CAS number actually refers to a specific parent metal or other specific category member.

2. *Basic definitions for the listed chemical categories.* The 20 chemical categories mandated for inclusion by the Committee Print cover a wide range of metal-containing compounds as well as certain organic compounds. EPA has developed brief, proposed definitions for each category. These definitions appear after the listed category name in proposed § 372.45(c). They are included in the regulation to help clarify the basic scope of each category for reporting purposes.

3. *Reporting listed trade name chemicals.* Certain of the entries on the Committee Print are product trade names, not chemical names. For example, the entry Parathion is a trade name. The chemical name with the corresponding CAS registry number is Phosphorothioic acid, 0,0-diethyl-o-(4-nitrophenyl) ester. EPA has received comment stating that a company that makes a section 313 chemical, but sells it under a different trade name, should not be required to report the chemical using its competitor's trade name. The commenter stated that there may even be legal constraints to such reporting.

EPA agrees with this comment. As a result EPA is proposing to replace trade name entries with the CAS prefered chemical name. The proposed list in § 372.45 contains the trade name as present in the Committee Print followed in solid brackets by the CAS prefered chemical name. EPA proposes that this CAS prefered chemical name be reported rather than the trade name.

4. *Clarification of certain qualifiers that appear next to chemical names.* Certain of the chemicals listed in the Committee Print have parenthetic qualifiers listed next to them. Commenters requested that EPA provide some clarification or interpretation of these qualifiers.

Three of the metals on the list (aluminum, vanadium, and zinc) contain the qualifier "fume or dust". EPA interprets this qualifier to mean that a facility is manufacturing, processing, or using the metal in the physical form of fume or dust. As explained in Unit IV.C. the proposed definition of the term manufacture includes the generation of a chemical as a byproduct or impurity. In such cases, a facility should determine if, for example, it generated more than the 1987 threshold of 75,000 pounds per year of aluminum fume or dust as a byproduct of its activities. If so then the facility must report. Similarly there may be certain technologies in which one of these metals are processed in the form of a fume or dust in order to make other chemicals or other products for distribution in commerce. Again, if more than the applicable threshold quantity is processed in a year, this triggers reporting.

Two of the chemicals entries contain a qualifier relating to manufacture. For isopropyl alcohol the qualifier reads "mfg. — strong acid process." For saccharin the qualifier simply reads "manufacturing." In the case of isopropyl alcohol, EPA proposes to interpret the qualifier to mean that only persons who manufacturer isopropyl alcohol by the strong acid process would be required to report. In the case of saccharin, only manufactures of saccharin would be required to report. A facility that processes or otherwise uses either chemical would not be required to report for those chemicals.

Four substances on the list are qualified by the term "solution." These substances are ammonium nitrate, ammonium sulfate, sodium hydroxide, and sodium sulfate. EPA interprets the term "solution" to refer to the physical state of these chemicals. Only facilities that manufacture, process, or use these chemicals in the form of a solution would be required to report these chemicals.

The listing for phosphorus is qualified by the term "yellow or white." This refers to a chemical state of phosphorus meaning that only manufacturing, processing, or use of phosphorus in the yellow or white states would trigger reporting. Conversely, manufacturing, processing, or use of "black" or "red" phosphorus would not trigger reporting.

The listing for asbestos is qualified by the term "friable." This term refers to a physical characteristic of asbestos. The EPA interprets "friable" as being crumbled, pulverized, or reducable to a powder with hand pressure. Again, only manufacturing, processing, or use of asbestos in the friable form would trigger reporting.

C. Authority and Mechanisms for Changing the List

Section 313(d) provides EPA the authority to revise the list of chemicals.

Such revisions must be made through notice and comment rulemaking procedures. A chemical may be added to the list if EPA determines that there is sufficient evidence that the chemical meets any one of several human health or environmental effects criteria, as outlined in section 313(d)(2). A chemical may be deleted from the list if EPA determines that there is not sufficient evidence to establish that the chemical meets any of the criteria.

Proposals to add or delete chemicals can arise from two basic activities: either by EPA's own review of chemicals, or through consideration of public petitions authorized under section 313(e). For a detailed discussion of the petitions process and the criteria mentioned above, refer to EPA's section 313 petitions policy notice published in the **Federal Register** of February 4, 1987 (52 FR 3479).

IV. Who Must Report

Section 313(b) provides that owners and operators of covered facilities are subject to the reporting requirements contained in section 313(a). If a facility is owned by one person but operated by another then either person may report. However, if a report is not submitted for a covered facility, EPA would hold both persons liable for any applicable penalties under section 325 of Title III.

Section 329(4) of Title III defines the term "facility" as all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person who controls, is controlled by, or under common control with, such person).

Therefore, a facility is a broad concept and may include the activities of more than one manufacturing plant site. One commenter stated that the physical boundaries of their facility would encompass five plant sites. These sites are, for all practical purposes, separate business units that may or may not make, process, or use the same chemicals. The commenter explained that it would be difficult to develop a single "facility" report for the purposes of this proposed rule. One option EPA is considering is to allow reporting by such separate plants rather than requiring one report that would aggregate the emissions of the same chemical from all plants within a facility. The major disadvantage of this plant-specific approach is that the Agency may lose emissions data otherwise captured by the broader approach. For example, several of the sites may process the same listed toxic chemical but none of them individually may meet the threshold for reporting that chemical. Under the aggregate facility approach, the total amount processed by all such sites might exceed the threshold, thus triggering a report. There is also the basic difficulty of consistently defining the subunits for reporting. EPA is requesting comment on how common such multiple plant site situations are within the manufacturing industry and how EPA may most reasonably deal with this plant site versus facility reporting issue.

A. Covered Facilities

Section 313(b) further specifies that a facility is covered for purposes of reporting if it meets all of the following criteria:

The facility has 10 or more full-time employees.

The facility is in Standard Industrial Classification (SIC) codes 20 through 39 (as in effect on July 1, 1985).

The facility manufactured (including quantities imported), processed, or otherwise used a listed chemical in amounts that exceed certain threshold quantities (see Unit V.A. below) during the calendar year for which reporting is required.

The statute targets facilities in the manufacturing sector of the economy by designating SIC codes 20 through 39. In brief, a facility is considered to be covered under the SIC code criteria if its primary SIC code is within the 20 through 39 designations. A primary SIC code is generally considered to be the code related to the types of products distributed from that facility that have the highest dollar value added.

In addition, a facility that may not consider its primary SIC code to be in the 20 through 39 range. It may, however, engage in 1 or more activities in the SIC code 20 through 39 range, thus meeting the SIC code criteria for the purposes of this proposed rule. For example, a large facility may consider its primary SIC code to be 13, relating to oil and gas extraction. However, within that facility there may be specific sites or other definable units engaged in production of chemicals (SIC 28) or refining of petroleum products (SIC 29). EPA believes that it is important to cover these situations where significant emissions of chemicals might occur but would not otherwise be reported. This interpretation is also consistent with the Occupational Safety and Health Administration's (OSHA) intepretation of facilities subject to the Hazard Communication Standards.

At the time the legislation was drafted, the most current revision of the SIC code manual was actually 1972 with a supplement published in 1977. EPA interprets the parenthetical reference in the statute to July 1, 1985 to mean the most recent update of the SIC code system. EPA does not believe that Congress intended the facility SIC code designations to be frozen in time. The Office of Management and Budget (OMB) has updated the SIC code system effective January 1, 1987. Therefore, EPA proposes to use this most current update of the SIC code system and any subsequent revisions as the basis for facilities to determine whether they may be subject to reporting. EPA expects that these basic manufacturing designations will remain relatively stable over time. For example, in the 1987 revision there are no basic additions, deletions, or movements of facility types in the 20 through 39 code part (Part D—Manufacturing) as compared with the preceeding edition of the SIC Code Manual.

OMB published its final notice of decisions regarding the SIC code manual update in the **Federal Register** of October 1, 1986 (51 FR 35170). Refer to that notice for relevant modifications in SIC codes 20 through 39. Also see the Instructions for EPA Form R for information on how to obtain a copy of the updated SIC code manual, or check with a local library. If a person engaged in manufacturing activities is not already familiar with the facility's primary SIC code then he can contact his trade association, legal counsel, or the Chamber of Commerce for assistance.

B. Modifying the Requirements for Facilities Covered

This proposed rule contains the SIC code designations as present in the statute. However, section 313(b)(1)(B) of the statute allows EPA to modify the requirements for facilities covered by adding or deleting SIC codes, but only to the extent necessary to carry out the purposes of section 313. Also, EPA may, at its own discretion, or at the request of a state governor, apply the reporting provisions of section 313 to specific facilities not covered by the SIC codes (or other facility criteria) in accordance with the criteria set forth in section 313(b)(2).

EPA is not proposing at this time to add or delete SIC codes or make any individual facility designations. The Agency has received comments suggesting that certain facilities in segments of the economy other than those covered by SIC codes 20 through 39 may release significant quantities of toxic chemicals covered by this proposed rule. Examples given are warehouses or other storage facilities.

wholesale distributors of chemicals (where processing activities such as repackaging may occur), commercial waste treatment facilities, and some types of Federal facilities. EPA is seeking further comment on the issue of modifying the SIC code coverage. Commenters should state specifically the segment of the industry they believe should be covered or deleted, the specific SIC code designation(s), and how the inclusion or deletion of such facilities is consistent with the basic objectives of the statute.

C. Applicability Based on Manufacture, Process, or Use

A person that determines that the facility meets the employment and SIC code standards for being a covered facility must then determine if the facility manufactures, processes, or otherwise uses a listed toxic chemical in excess of certain annual threshold quantities (see Unit V for these threshold values). Section 313(b)(1)(C) contains definitions for the terms "manufacture" and "process."

1. *Manufacture.* As defined by the statute, the term "manufacture" means to produce, prepare, import, or compound a toxic chemical.

It is important to note that the term manufacture includes importation. Commenters requested clarification as to whether all importers of listed toxic chemicals are subject to reporting. Inclusion of the term import in the manufacture definition equates the action of importing with that of producing the same chemical. It does not directly define a "person" subject to reporting. The determining factor is whether the facility receiving the imported chemical falls within the SIC code 20 through 39 range. For example, a company that is primarily an import agent may not be subject because its facility may not be classified in the covered SIC codes. On the other hand, a chemical manufacturing facility that orders and receives a chemical substance from a foreign supplier (either directly or through an agent) would most likely be subject to reporting.

EPA wishes to clarify another point relating to quantities imported and the threshold determinations. If a facility both makes and imports the same covered chemical in the same year, then the facility would add those quantities together when making the manufacturing threshold determination.

EPA is proposing to further interpret the statutory definition of "manufacture" to include coincidental production of a toxic chemical (e.g., as a byproduct or impurity) resulting from the manufacture, processing, use or disposal of other chemical substances. EPA believes that significant quantities of listed toxic chemicals can be produced as byproducts or impurities. If that chemical is produced coincidentally in quantities that exceed the specified thresholds under section 313, then it is important to account for releases of that toxic chemical to the environment in the same way as a person would account for the releases associated with producing that chemical as a commercial end product.

2. *Process.* As defined by the statute, the term "process" means the preparation of a toxic chemical after its manufacture for distribution in commerce—(a) in the same form or physical state as, or in a different form or physical state from, that in which it is received by the person so preparing such substance, or (b) as part of an article containing the toxic chemical.

In general, processing includes making mixtures, repackaging, or use of a chemical as a feedstock, raw material, or starting material for making another chemical. Processing also includes incorporating a chemical into an article.

EPA also interprets the term "process" to apply to the processing of a toxic chemical that is a component of a mixture or other trade name product. This would include processing of a toxic chemical that is an impurity in such product. That is, if a person is processing a chemical or mixture that contains an impurity, then the person is processing that impurity.

3. *Otherwise used.* The statute does not define the term "otherwise used" and no guidance with respect to this term is provided in the legislative history. EPA proposes to define "otherwise used" as any use of a toxic chemical at a covered facility that is not an action covered by the terms "manufacture" or "process," and includes use of a toxic chemical contained in a mixture or trade name product. For example, a chemical would be otherwise used if it is used as a solvent to aid a chemical process but does not intentionally become part of the product distributed in commerce. Another example would be a chemical used as an aid in manufacturing such as a lubricant or metalworking fluid. Such uses do not fall within the definitions of manufacture or process.

EPA believes that it is necessary to define the term "otherwise used" to make a distinction between processing and other uses, primarily as they relate to the threshold values discussed in Unit V. In particular, a facility that processes a chemical has a higher threshold assigned to it by the statute than a facility that uses (i.e., otherwise uses) that chemical. For example, a facility that incorporates toluene into a mixture for distribution in commerce is processing that chemical. Provided the facility meets the SIC code and employment triggers above, the facility must report if it processes more than 75,000 pounds of toluene in 1987. A facility that "otherwise uses" toluene, for example to clean equipment, is not processing toluene. Therefore the threshold is use of more than 10,000 pounds per year of toluene. EPA requests comment on the proposed definition of "otherwise used" and its application in the proposed rule.

EPA also interprets the terms "otherwise use" or "otherwise used" to include use of a toxic chemical that is a component of a mixture or other trade name product. That is, if a facility is using such product it is thereby using the toxic chemical.

4. *Determining applicability when mixtures or trade name products are of undetermined composition.* Commenters pointed out to the Agency that importers, users, and processors of mixtures and trade name products may not know that they are subject to reporting because the composition of such products may not be readily apparent. EPA has developed a support document titled "Toxic Chemical Release Inventory—Glossary of Synonyms." This document is designed to aid respondents in identifying the fact that they may be making, processing, or using a listed toxic chemical.

However, the Agency realizes that the composition of many mixtures or trade name products may be considered trade secret by the manufacturer or supplier of those products. Thus the identity of chemicals subject to section 313 reporting may not, for example, be entered on the Material Safety Data Sheet (MSDS) for that product.

Section 313(g)(1)(C) states that a person must report the information required for those toxic chemicals "known to be present at the facility." In those cases involving importation, use, or processing of products of undetermined composition, EPA believes that a facility must take reasonable steps to identify any reportable chemicals in those products.

a. *Guidance to importers, users, and processors.* EPA offers the following guidance for making such a reasonable determination relating to mixtures and trade name products of unknown composition. In this discussion the term user applies to importers, users, and processors of the product in question. The term supplier is used to indicate the

manufacturer or processor who distributed the product in commerce.

Users meeting the SIC code and employment triggers should survey their facilities for mixtures or trade name products that they either use in excess of 10,000 pounds per year or import or process in excess of 75,000 pounds per year (the 1987 processing threshold).

Contact the supplier of the product and ask if the product contains a chemical or chemical category members listed for reporting under section 313. If the supplier is unaware of the reporting requirements, provide the supplier the citation to this **Federal Register** document and follow up on the contact.

If the supplier confirms that the product contains no section 313 listed chemical or category member, then the user has no further reporting responsibility with respect to that particular product.

If the supplier of the product refuses to answer the question on grounds of trade secret protection, the user could offer to enter into a confidentiality agreement with the supplier. If this approach is unsuccessful, EPA would consider that the user has reached the limit of his or her ability to reasonably determine the presence of a listed chemical in that product. The user should, however, document his or her attempts to make this determination.

If the supplier of the product confirms that the product contains a listed section 313 chemical, the user should request the specific identity of the listed chemical and the percent by weight of that chemical in the product. Should the supplier refuse to provide this specific identity, the user should ask for the generic classification name that the regulation assigns to that chemical (see proposed § 372.42 for this list of generic classifications to be used when a respondent claims specific chemical identity as trade secret). Disclosing this generic identity to the user would give the user enough information to make a minimal report. Also, it would give the Agency and the public at least an indication that the user may be emitting one or more listed toxic chemicals as a result of the facility's use, importation, or processing of a mixture or other trade name product.

If the supplier provides the percentage by weight information requested, the user should first determine whether the quantity of the chemical meets the threshold for reporting that particular listed chemical (i.e., multiply that percentage by the total annual pounds of the product used). If an applicable threshold is exceeded, that percentage figure would be further applied for purposes of calculating emissions of the listed chemical.

If the supplier does not or will not provide the percentage composition information, EPA would consider that the user still has a limited responsibility to report. EPA is proposing that in such cases where a product is known to contain a listed toxic chemical but the specific composition cannot be determined, the statutory thresholds for reporting would apply to such mixture or trade name product as a whole. Such product is known to contain a listed toxic chemical. Therefore, EPA proposes to err on the side of caution because, under a worst-case assumption, it is possible that the product is 100 percent listed toxic chemical.

However, because of the lack of composition information, EPA considers that a user would not be able to reasonably estimate the emissions of the toxic chemical in question. Therefore, in such cases the user would only be responsible for completing sections of the form that deal with facility identification, chemical identification, and use of the chemical at the facility (sections I through V of the reporting form). No on-site quantity information, release data, or treatment-related information would be required because the reporter would not have the information to complete those sections of the form. EPA believes that both government authorities and the public would still benefit from knowing that products containing reportable toxic chemicals are being imported, used, or processed at certain locations even if the emissions of such chemicals are not quantified.

If the user is only able to determine that the product contains some unspecified listed chemical, the user would fill in the product name in the space provided on the form for chemical identity. The Instructions for the form provide a flow chart for determining the information related to mixture and trade name products that would be reported.

b. *Guidance to producers of mixtures and trade name products containing listed toxic chemicals.* It is obvious from the above discussion that importers, users, and processors of mixtures or trade name products may have to do a considerable amount of work to determine if and what they must report under section 313. As a means of reducing this burden, EPA strongly urges manufacturers or processors who incorporate listed toxic chemicals into mixtures or trade name products to take the initiative to inform their customers of the presence of section 313 chemicals in those products. Such producers should provide information sufficient for their customers to meet their responsibilites under the statute. EPA believes that the presence of one or more of the section 313 toxic chemicals in a product should be information incorporated into the MSDS for that product. Such information should include the percent composition of the toxic chemicals in the product.

If the producer considers that the specific chemical identity information is worthy of trade secret protection, then the producer should provide customers with enough information for those customers to meet their minimum reporting requirement. As discussed above, producers and customers could enter into confidentiality agreements. Alternatively, the producer could provide the customer with the generic classification identity of the toxic chemical that the producer would enter on its own report to EPA and the State under section 313. Because the specific chemical identity would be masked, providing the percentage composition information to the customer should not, in the Agency's opinion, jeopardize the confidential nature of the formulation.

c. *Alternatives for developing information about mixtures and trade name products.* EPA is considering other means for providing users and processors of mixtures or trade name products with information sufficient to comply with the law.

One option would be to use the general rulemaking authority of section 328 of Title III to require producers of trade name products to notify customers. Manufacturers, importers, or processors of a listed substance would be required to notify their customers (who order 10,000 lbs or more of the product per year) that they are using a product containing a section 313 listed chemical and that they may be subject to emissions reporting. This would at a minimum increase the awarenesss of the user community regarding its potential reporting responsibility.

A second option would be to require these same manufacturers, importers, and processors to report to EPA the trade name of the products they distribute in commerce that contain a section 313 chemical and the percentage by weight of the chemical in that product. Chemical identity could be claimed trade secret. EPA would then publish a comprehensive list of trade name products containing listed chemicals. The list would contain either the specific identity or the corresponding generic classification name along with the percent by weight information.

A third option would be to require producers to report to EPA the names and addresses of customers that purchase more than the quantity of a product that would potentially put that customer over the threshold for use of the specific toxic chemical contained in that product. For example, if a product contains 50 percent by weight of a toxic chemical, then the producer would report to EPA the names and addresses of those customers who purchase in excess of 20,000 pounds of the product in a calendar year.

EPA requests comment on the issue of reporting mixtures and trade name products containing listed toxic chemicals and options for providing importers, users, and processors of such products with the information they need for purposes of compliance.

V. General Reporting Requirements

A. Threshold Amounts for Reporting

Section 313(f) establishes thresholds for purposes of reporting toxic chemicals. These threshold amounts further define which owners or operators of covered facilities must submit toxic chemical release forms to EPA and the States. These statutory criteria are reflected in proposed § 372.12.

1. *For a listed toxic chemical that is manufactured (including imported) or processed.* Facilities that manufacture, or process a listed chemical must report if they manufactured (including quantities imported) or processed amounts in excess of the following thresholds for the calendar years:

1987—75,000 pounds per year.
1988—50,000 pounds per year.
1989 and thereafter—25,000 pounds per year.

2. *For a listed toxic chemical "otherwise used."* The threshold amount for a use other than manufacturing, importing, or processing of a listed toxic chemical is 10,000 pounds per year. A report must be submitted if a facility "otherwise used" the chemical in excess of this amount during a calendar year for which reporting is required.

Owners or operators of facilities that exceed any of the above thresholds are subject to the reporting requirements and must report all emissions of that chemical from the facility. For example, a company might manufacture 20,000 pounds of a listed toxic chemical and use 15,000 pounds of that production during a calendar year. The facility would report because it exceeded the use threshold quantity. The facility would then be responsible for reporting emissions of the chemical from the manufacturing activity as well as the use activity, even though the manufacturing activity itself did not trigger reporting.

3. *Figuring thresholds in connection with the listed categories.* Companies that manufacture, process, or otherwise use one or more chemicals that would be covered by a category listing (e.g., the company makes several copper-containing compounds) would count the total pounds of all such compounds in the category for purposes of making the threshold determination.

4. *Figuring threshold when a toxic chemical is a mixture component.* If a toxic chemical is a component of a mixture then the threshold would be determined by multiplying the mass percent of the chemical in the mixture times the total annual quantity of the mixture that is used or processed. One commenter asked whether EPA would apply some de minimis cut-off for this percentage in a mixture. Another commenter suggested a 1 percent cut-off, citing the 1 percent cut-off in EPA's interim final rule for implementing section 302 of Title III (51 FR 41570). EPA is not proposing any de minimis cut-off as part of the threshold determination provisions of this proposed rule. EPA believes that if a facility can determine that it exceeds the appropriate poundage thresholds for a particular chemical it must report, regardless of the mass percent value of that toxic chemical in the mixture. For example, a company uses 2,200,000 pounds of a mixture in a year. A chemical is known to constitute one-half percent by weight of that mixture. The company has therefore used 11,000 pounds of the toxic chemical and would thus be subject to reporting.

5. *Figuring thresholds when a toxic chemical is recycled or reused at the facility.* Commenters pointed out that certain chemicals may be recycled or otherwise reused in processes within the facility. For example, the company uses and recycles 15,000 pounds of a solvent in a process. However, during any given year they may only purchase 2,000 pounds of the solvent to replace quantities lost or amounts of spent solvent removed from the facility. On an annual, "consumptive" basis one could argue that they have not exceeded the use threshold. Commenters questioned how they should determine whether they exceed the annual threshold quantities in such cases. EPA proposes that the quantity that must be figured is the combination of the amount of the chemical in the recycle or reuse activity at the beginning of the reporting period plus any additional quantity of the same chemical brought on site during the year.

6. *EPA's authority to modify thresholds.* Section 313(f)(2) states that EPA may establish a different threshold amount for a toxic chemical. However, under the statute any revised threshold must obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to reporting. In addition, EPA has some further discretion under this paragraph to establish different threshold amounts based on classes of chemicals or categories of facilities. For example, the Agency could apply a different threshold for reporting to the class of metal compounds. A threshold change based on a category of facilities could include facilities in certain SIC codes; facilities with a different number of full-time employees than is specified by the statute; or facilities with air or water releases above certain thresholds (e.g., major water dischargers or those subject to an air permit).

EPA is requesting comment on the issue of whether it should or should not establish modified thresholds. The Agency is interested in data that would support the necessary finding that a modified threshold would still generate reporting on a substantial majority of total releases, as the statute requires. For example, the Small Business Administration (SBA) has suggested that the thresholds be modified to capture only larger facilities (e.g., facilities with more than 50 employees). SBA believes, based on recent EPA studies conducted or underway in four regions (i.e., Santa Clara Valley, Philadelphia, Baltimore, and Kanawa Valley), that releases from small facilities represent a small percent of aggregate emissions and health risks. Consequently, this approach could potentially capture the substantial majority of total releases and provide several benefits. SBA believes that this approach could allow EPA, States, and the facilities to concentrate resources on estimating releases of concern, reduce implementation problems, and provide more time for EPA to develop a quality data base and refine its guidance for small business. Under SBA's approach, EPA, after a review of the first year or two of data, could then decide whether the thresholds need to be modified and whether additional simplified guidance for smaller facility reporting is warranted. As an alternative to exempting small firms from reporting in the first two years, SBA recommends that EPA consider the option of requiring small firms to report only the production/use figures and to indicate whether there are releases (above de minimis levels) to air, land, and water.

EPA is interested in obtaining comment on these options but has not adopted them at this time, because the Agency believes that the data SBA referenced are not sufficient to support nationwide regulations. EPA believes that, given currently available information, any consideration of modified thresholds would need to be based upon the level of reporting realized over the first few years of implementation of this regulation. Such data are needed so that EPA can assess whether modifications of thresholds will allow EPA to meet the statutory requirement that a majority of release data would be submitted.

B. Frequency of Reporting and Reporting Deadlines

Section 313(a) establishes that the first reporting deadline is July 1, 1988, for releases of toxic chemicals that occurred during calendar year 1987. Also, section 313(a) establishes that persons subject must report annually thereafter on or before July 1 for releases of toxic chemicals that occurred during the preceding calendar year. Proposed § 372.15 incorporates these requirements without modification.

VI. Form and Specific Reporting Requirements

Section 313(g) requires EPA to publish a uniform toxic chemical release reporting form not later than June 1, 1987. If EPA had not published the form contained in this proposed rule, owners or operators of covered facilities would have been required to report to EPA and the appropriate State by letter and include the information as required in section 313(g)(1).

Section 313(g)(2) permits owners and operators of covered facilities to use readily available data (including monitoring data) that were collected pursuant to other provisions of law to provide the information required by the reporting form. When such data are not available, reasonable estimates of the quantities involved must be developed. Section 313 does not require additional monitoring or measurement of quantities, concentrations, or frequency of any listed chemical beyond that monitoring and measurement required under other provisions of law or regulation.

In addition to the instructions in this proposed rule, EPA has developed a support document titled "Guidance For Determining Releases And Waste Treatment Efficiency For The Toxic Chemical Release Inventory Form." That document contains detailed technical guidance for calculating the amount of a toxic chemical emitted into the environment and the efficiency of the treatment methods used in connection with the chemicals being reported. EPA is requesting comment on this document. To obtain a copy of the guidance document contact the address provided under the heading **"FOR FURTHER INFORMATION CONTACT."**

In general, the form is designed for multiple chemical submissions. Page 1 of the form contains all the facility related data and other common information elements. The remaining pages of the form are chemical-specific. Therefore, if a company must report on more than one chemical they will only have to fill out one copy of the first page of the form. They would then copy the already completed first page and attach it to as many sets of the remaining pages of the form as are necessary to cover the specific chemicals they are reporting.

In the event that the Agency does not issue a final rule by December 31, 1987, the form and instructions published here must be used for the purposes of reporting 1987 data.

Subpart D of the proposed regulatory text contains the reporting form and instructions. The following is a general discussion of the information that the statute requires to be reported, how EPA has interpreted the requirements for this proposed rule, and how such interpretation is reflected in the proposed reporting form and instructions.

A. Certification Statement

Section I of the proposed form includes a statement that the information provided is accurate and complete. As required by the statute, the statement is to be signed by a senior official with management responsibility for the person or persons completing the form for that facility.

If the identity of a chemical or chemical category being reported is claimed a trade secret, this certification also applies to the trade secrecy claim and the explanation that must accompany such claim. See Unit VII of this preamble for a specific discussion of trade secrecy claims and the required explanation to be submitted with such claims.

Regarding such senior management official, EPA received a comment that the term "official" is ambiguous and could be interpreted to mean an officer of the company. In many large corporations there are only a few officers and actual management authority may vary from corporation to corporation. The commenter recommends modifying the language to read "an authorized representative with management responsibility. . . ." The legislative history does not provide significant direction on this issue other than to state that the purpose of the certification requirement is to assure that a senior management official review the report for accuracy and completeness. EPA does not intend to modify the terminology prescribed by the statute. However, the report is facility-specific. Therefore EPA interprets that such official could be the facility manager (rather than a corporate officer) or, for example, the manager of environmental programs for the facility or for the corporation responsible for certifying similar reports under other environmental regulatory requirements.

B. Facility Identification

Section II of the form would require specific information about the reporting facility.

1. *Facility location.* Each submission would specify the facility's name and address. In addition, EPA proposes to require the facility's Dun and Bradstreet Number and, if applicable, its EPA identification number. This EPA Identification number is also commonly referred to as the RCRA I.D. number. It is a facility-specific number (generally based on the Dun's number) that is assigned to the facility by EPA or the State for purposes of reporting under hazardous waste regulations. These numbers can be used as geographic locators. They would be required in part so that EPA can verify the actual physical location of the facility where the releases of toxic chemicals occur; not the company's headquarters, its administration building, or its post office box. These identifiers will also aid both regulatory authorities and the public in cross-referencing and analyzing existing data from the same facility.

2. *Technical contact.* The proposed form would require the designation of a technical contact who can clarify or supplement the information in the submission. This person's name, address, and telephone number would be provided. EPA believes that the designation of a technical contact will greatly facilitate follow-up by EPA, States, or local governments, and by members of the public.

3. *Permit numbers.* EPA proposes to require inclusion of the facility's permit number issued under the National Pollutant Discharge Elimination System (NPDES). Representatives of public interest groups and State governments commented that the availability of this permit number in the data base would enhance the public's ability to obtain further information regarding the

facility, particularly its emissions to water. Industry representatives indicated that the NPDES permit number is a well known piece of information to any potentially covered facility and that there was generally only one such permit number applicable to a facility. While the Agency had some concern about the duplicative nature of including this reporting element, EPA believes that it will be useful to the public and will represent only a very minor incremental increase in the reporting burden.

EPA is also proposing to ask for the name of the receiving water body as reported on the NPDES permit. This should be the receiving stream that directly receives the wastes and not rivers or bodies of water that receive wastes indirectly downstream. Having the name of the receiving stream enhances use of the data, for example, by allowing EPA or States to model in-stream concentrations of a chemical from knowledge of the discharge point. Communities could use the information to determine whether a discharge is upstream of drinking water intakes.

Another facility-specific permit number that would be required is the Underground Injection Control (UIC) Identification number. This permit number relates to Class 1 deep well injection of hazardous or other wastes under authority of the Safe Drinking Water Act. Like the NPDES permit number, this is a well-known facility-specific permit number; and providing it on the form will give the public a direct lead to valuable information about this type of release to land.

EPA also considered requiring specific air quality related permit number information. However, there may be a multitude of such numbers per facility based on a variety of Federal, State, and local government regulatory requirements. The problem with air permit numbers led the Agency to an alternative approach. In the release section of the form, EPA is proposing to require a "yes" or "no" indication of whether the chemical is specifically covered by provisions of an air quality permit. This information will at least provide interested users of the data with an indication that further information on such release may be obtained by reviewing such permits. As described in Unit VI.G. below a similar approach to permit indication is followed with respect to releases to water and land. As indicated above, the facility will have effectively provided a permit number for on-site land related treatment and disposal of hazardous wastes containing the toxic chemicals by providing the EPA I.D. number and the UIC Identification number.

4. *SIC codes.* To identify the principal business activity at the facility, as required by the statute, EPA proposes to require the primary four-digit Standard Industrial Classification (SIC) code that applies to the facility. Also, the facility would, if applicable, supply up to two additional four-digit manufacturing SIC codes within the SIC 20 through 39 range that relate to the facility's manufacturing, processing, or use of the chemicals being reported. These SIC codes can, in a very basic sense, be used to verify that the facility is subject to the section 313 reporting requirements. Moreover, classification by SIC code will allow the data obtained from these forms to be analyzed by industrial activity.

5. *Parent company name.* Commenters expressed the need to be able to identify the parent company of the reporting facility. In the view of the commenters, such information would enhance the public's knowledge about the facility, especially in cases where the facility name itself may give no indication of its connection with a larger, national or international corporate entity. EPA agrees that such information could be valuable to users of the data for purposes of comparative analysis of industry activities. EPA also sees this element as a means of verifying the "person" subject to reporting, i.e., the owner or operator of the facility as the language of the statute prescribes. Therefore, EPA proposes to require the submitter to include the name of the facility's parent company and that company's Dun and Bradstreet number. EPA believes that this will be information readily available to the facility and will represent only a minor incremental increase in the reporting burden.

C. Identification of Off-Site Locations to Which Toxic Chemicals are Transfered

EPA is also proposing to require the submitter to provide the name and the address of any off-site waste treatment, storage, or disposal facility to which wastes containing the chemical are sent. This information would be entered on the first page of the form (form section III). This information is placed on the first page of the form so that respondents will not have to repeat this same information for each chemical they may be reporting. When the actual chemical-specific releases are reported in a later section of the form (see Unit VI.G.4. below) the submitter would only need to provide a reference to that off-site location as explained in the Instructions.

EPA believes that this off-site location information will greatly enhance the public's understanding of the locations of the toxic chemicals in a community and will complete the picture of waste related releases of a chemical from a facility.

This information should be readily available to the submitter, and EPA does not believe that entering such information on the form will pose a significant additional burden. EPA is requesting comment on this issue of providing off-site location information.

For each off-site location, except a publicly owned treatment works (POTW), EPA proposes to ask whether that location is under the management or control of the reporting facility, or under the management or control of that facility's parent company. EPA believes that this information will give users of the data an important indication of the relative level of responsibility for the ultimate disposition of the chemical in the environment. Again, such information is likely to be readily available to submitters.

EPA is also proposing to require information on how such location is handling the waste containing listed chemicals (e.g., deep well injection, landfill), and, if known, how the waste may be further treated at such locations. EPA and other users of the data would then be able to better evaluate whether the chemical in the waste would end up as a release, and the likely form of that release. EPA realizes that treatment information may not in some cases be readily available to the submitter. Therefore, the submitter would be required to enter this information on the form only if it is readily available information known to the submitter. For example, in contracting with such off-site facility, such treatment information may be included as part of the agreement or may appear in other correspondence with the company or in promotional literature.

Included in the concept of transfers to off-site locations would be quantities of the chemical in wastes that are shipped to or removed by a "broker," or middleman. In such cases, the facility owner or operator may not know the actual location of the site to which the waste is shipped or the waste treatment or disposal methods to which the wastes will be subject. Therefore, the location information provided by the respondent would be the name and address of the waste broker.

There is a key criteria for determining whether the transfer of a toxic chemical to an off-site location is reportable. Thai criteria is whether the chemical in the

waste is being removed from the facility for ultimate disposal. For example, a facility contracts with a commercial waste disposal firm to remove a spent solvent from the facility. The facility would report the removal of the solvent from the facility as a transfer to an off-site location. If, however, the facility sells this spent solvent to a reprocessor, then the facility would not be required to report this sale as a transfer of the chemical to an off-site location. The firm purchasing and reprocessing the solvent would be covered by the reporting provisions of this proposed rule as either a manufacturer or a processor of the solvent. That reprocessor would then be responsible for reporting their own releases to the environment of the chemical. This later case is consistent with the overall distinction made between "releases" from a facility and the distribution in commerce of a covered toxic chemical as part of a product. If the reporting facility does not know whether the chemical being removed from the facility is destined for ultimate disposal, then EPA proposes that the facility would err on the side of caution and report this removal of the chemical from the facility as a transfer to an off-site location.

D. Chemical Identification

Section IV of the form requires identification of the chemical or chemical category to which all subsequent data apply. The chemical is to be identified by the listed chemical name and, if applicable, by the CAS registry number. Chemical categories listed do not have a CAS number associated with them. Refer to proposed § 372.45 for the lists of chemicals and chemical categories covered by this reporting requirement.

The form would require the CAS number in addition to the listed chemical name. Such CAS numbers are provided in the regulatory listing. Inclusion of the CAS number on the form will provide verification of the chemical's identity. CAS numbers are widely accepted and used for purposes of chemical identification and chemical reporting. EPA believes that their inclusion in the data base will also facilitate the retrieval of additional information on the chemical from other data bases or references.

1. *Identifying individual chemicals versus aggregate reporting under a category.* Any chemical specifically listed (i.e., listed in proposed § 372.45 (a) and (b)) must be reported individually along with the associated CAS number.

A chemical on the list that has an associated CAS number may also fall into a covered category or be the parent metal for one of the categories. Again if the chemical is listed individually in the rule, it would be reported on a separate form. For example, a company makes and sells the specific listed chemical 2,4-dichlorophenol. The company would not report the category "chlorophenols."

A chemical that fits the definition of one of the listed categories and that is not specifically listed in § 372.45(a) and (b) would be reported using the category name. For example, a company using copper chloride, which is a chemical not specifically listed, would enter "Copper compounds" as the chemical identification. If more than one such unspecified category member is made, processed, or used by the facility, then the facility would aggregate those chemicals for reporting. Aggregate reporting allows a facility to report (on one form) all the chemicals that fit a category using the categorical name as a label. For example, a facility may report emissions of all the copper-containing compounds on one form. In the chemical identification section of the form, the category name "Copper compounds" would be entered.

2. *Claiming the chemical identity as a trade secret.* Section 322 of Title III permits chemical identity to be claimed as a trade secret. Title III does not authorize a claim of trade secrecy for anything other than chemical identity. A box in Section IV.B. of the form must be checked when a claim of trade secrecy is made. The submitter must also provide EPA with an explanation of the trade secret claim. Refer to Unit VII of this preamble for a detailed discussion of the required explanation.

The statute requires that the submitter must supply a generic chemical class identification on the form. EPA proposes a list of generic classifications with related codes in § 372.42 of the proposed rule. EPA is proposing to predefine the generic classification name for each listed chemical and chemical category. EPA has assigned a generic classification to each list entry and has placed the corresponding generic classification code next to the chemical or chemical category name in the § 372.45 listings. Refer to the column titled Generic Classification Code that appears in the chemical lists. EPA believes that this system will foster consistency in reporting and improve quality control related to data entry. This approach should also reduce the burden on respondents because they will not be required to develop their own generic identity for the submission. EPA considers the classifications to be general enough to satisfy the trade secrecy concerns of industry. At the same time, the classifications are descriptive enough to give users of the data base some indication of the type of chemical or chemical category being reported.

In relation to trade secrecy claims, commenters stated that a facility reporting a chemical category (e.g., Antimony compounds) could not further claim that reported identity as trade secret. Their rationale is that the identities of specific components being reported under that category name are already sufficiently masked. EPA does not agree with the commenters interpretation. A category such as Antimony compounds is a toxic chemical identity as listed in the referenced Committee print for purposes of reporting under section 313. Because chemical identity may be claimed trade secret and because there is no specific exclusion from such claims for an identitiy that is a category, EPA concludes that such category designations may be claimed trade secret. As a practical matter, however, the Agency believes that a facility would have difficulty justifying a trade secrecy claim with respect to one of the compound categories.

3. *Identifying mixtures or trade name products.* Unit IV.C.4. of this preamble discussed the problems of identifying and reporting toxic chemicals within mixtures or other trade name products. Section IV.D. of the form provides space for the reporting the name of a mixture or trade name products. If provided by the supplier, the generic classification name associated with the actual toxic chemical component would be entered in Section IV.C. of the form. As discussed, such importers, users, and processors of these products may only have a limited reporting responsibility under this proposed rule depending upon whether they reasonably can determine the necessary percent composition information.

E. Facility Activities and Uses of the Chemical

The statute requires information about whether the toxic chemical is manufactured, imported, processed, or otherwise used and the general category or categories of use of that chemical. EPA interprets this requirement to mean activities and uses at the facility, not uses for which the chemical is distributed in commerce. EPA has developed several proposed indicators of facility activity or use related to the chemical being reported (see Section V of the form). EPA believes that these indicators will give the users of the data a sufficient idea of why the chemical is present at the facility and, if applicable,

how it functions within the facility. EPA attempted at the same time to keep these indicators of use general enough so as not to compromise process-related trade secret information. A submitter would be required to check all activities and uses that apply.

F. Maximum Amount

The statute also requires an estimate of the maximum amount (in ranges) of the chemical present at the facility at any time during the reporting period. EPA proposes, as the conference committee report directs, that these ranges be adapted from the ranges used for development of the chemical inventory under section 8(b) of the Toxic Substances Control Act (TSCA). The TSCA 8(b) ranges relate, however, to total annual production rather than maximum on-site quantity at a point in time. Therefore, EPA requests comment on whether the magnitude of these ranges are appropriate for purposes of reporting under section 313.

G. Releases to Environmental Media

The statute requires information on "the annual quantity of the toxic chemical entering each environmental medium." The conference committee report elaborates upon this requirement, stating that "Reporting on releases to each environmental medium . . . shall include, at a minimum, releases to the air, water (surface water and groundwater), land (surface and subsurface), and waste treatment and storage facilities." The transfer of chemical-laden wastes to treatment or storage facilities is not commonly construed as a "release" to the "environment." However, such transfers are comparable to discharges from a facility because they are wastes leaving the facility, with the possibility that some fraction of the chemical in the waste may ultimately enter the environment.

The statute defines release as "any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any . . . toxic chemical." EPA is proposing to require reporting of total annual releases to various media, including in each total both accidental and routine or planned releases. In connection with this total release concept, EPA also proposes to require a "yes" or "no" indication on the form of whether the reported quantity of release includes any accidental releases reported under section 304 of Title III or section 103 of CERCLA. This approach ensures complete reporting of releases from the facility without requiring duplicative reporting on the specific quantities of the accidental or emergency portion of releases. Users of the data can then go to the state or local planning commission to review the specific "release" reports.

The release information required on the form is to be based on readily available data (including monitoring data and emissions measurements) collected pursuant to other provisions of law or as part of routine plant operations. Where monitoring data or emissions measurements are not readily available, reasonable estimates of the amounts released may be made using published emission factors, material balance calculations, or engineering calculations. No monitoring or measurement of the quantities, concentration, or frequency of any toxic chemical released into the environment, beyond that monitoring and measurement required under other provisions of law or regulation, is required for the purpose of completing the form.

EPA is proposing that respondents estimate as accurately as possible the quantities in pounds of the listed chemical released annually to each environmental medium. Respondents would round off these figures to the nearest pound. However, given the annual aggregate nature of the data, EPA is seeking comment on alternatives for reporting release quantities. One option would be to allow reporting in ranges for all emissions or for emissions below a certain threshold amount. A concern expressed by one commenter is the compliance implications, especially for smaller firms, of having to certify to a very specific release figure. Ranges could be established as order of magnitude or other appropriate categories; for example, 0 to 10 pounds, 10 to 100 pounds, 100 to 1,000 pounds, or 0 to 10 pounds, 10 to 100 pounds, 100 to 250 pounds, 250 to 500 pounds, 500 to 1000 pounds. One potential drawback to this approach is the difficulty of doing analyses from the data base where emissions are expressed in ranges rather than single numbers. Another potential problem is that neither the statute nor the legislative history of section 313 provides for reporting the emissions data as a range, such as is provided for reporting the maximum quantity of the chemical on site. Another option would be to allow respondents to report to one significant figure. For example, if a respondent estimates that their release of a toxic chemical to water is 1,120 pounds per year they would be allowed to report 1,000 pounds per year. This approach would allow for a consistent degree of leeway in expressing the accuracy of a single number for any release.

As a third option, EPA could require specific estimates within some specified degree of precision. For example, in the TSCA Inventory update rule, EPA required reporting of production volumes to two significant digits with an accuracy of plus or minus 10 percent. EPA asks for comment on whether this approach should be applied in this rulemaking.

For each annual release quantity, EPA proposes to require a "basis of estimate." This element will indicate whether the quantity reported was derived primarily based on monitoring data for the wastes leading to release, mass balance calculations of streams entering and leaving process equipment, emission factors (e.g., published data on the amount of release to a medium as a fraction of production volume for the process/equipment leading to the release), or other approaches such as best engineering judgement. In addition to providing some idea of the quality of the estimate, this element will identify situations in which monitoring data might be obtained as part of follow-up activities by EPA or states. Most release quantities are likely to be aggregates of estimates using different methodologies (e.g., part of stack emissions based on monitoring data, part based on emission factors). Submitters would indicate the single method accounting for the largest portion of the release quantity. EPA requests comment on this approach.

For metal compounds, EPA proposes that the release quantities be reported for only the metal and not the metal compound. EPA recognizes that most monitoring data available measures only the metal portion of the compound. Reporting of the amount of compounds released would be complicated when more than one substance contributes to the metal content of the waste, when the compound dissociates, and when the compound is converted to a different substance due to waste treatment or other processes. It therefore appears reasonable to require reporting of metal released to avoid confusion over the meaning of total compound released.

This section of the form also requires a "yes" or "no" indication of whether the toxic chemical released is specifically covered by a environmental permit. In general, a facility would answer "yes" if the permit specifically includes or cites the reported toxic chemical.

Section VII of the proposed form is organized by environmental media. It would ask for information on releases to (A) air, (B) water, (C) land, and (D) transfers to off-site locations.

1. *Emissions to air.* The subsection on air releases includes fugitive and point air emissions. EPA proposes to distinguish fugitive or non-point air emissions from stack or point air emissions for two reasons. First, estimates of stack emissions are likely to be more accurate than estimates of fugitive emissions because stack emissions can be directly measured. Better overall information on air releases can be obtained if fugitive emissions are reported separately and the accuracy of the data on stack emissions is preserved. Second, separate reporting of fugitive and stack emissions will enable regulatory agencies and other users of the data to judge the relative significance of these two sources of releases.

For each air release quantity, submitters are to indicate whether the release is covered by any applicable permit controlling the chemical. Because a facility may have many air permits covering single pieces of equipment or processes, EPA is not requesting permit numbers. That a permit exists for the air emissions of the chemical at the facility provides a starting point for the community to obtain permit information.

To answer "yes" to the permit question, the facility must determine that the permit specifically cites the toxic chemical in that permit. For example, a permit might set a numerical emission limit to control quantities of that specific toxic chemical released. The facility would answer "no" if, for example, the permit sets a performance standard for the process equipment in which the chemical is made or used but does not cite the specific toxic chemical. Some facilities may have several similar emissions sources that treat the same toxic chemical. If some but not all of these emission sources specifically have permits that specifically cite the chemical, then it is still appropriate to answer "yes" to the permit question.

2. *Discharges to water.* The subsection on releases to water includes the facility's direct releases to receiving water bodies only. The facility would enter the amount of the chemical released to surface waters (e.g., rivers, lakes, streams, etc.) from all discharge points at the facility. Quantities of a toxic chemical in wastewater discharged to a POTW or other off-site treatment plant would be entered in Section VII.D. of the form (see paragraph G.4. of this unit).

EPA also proposes that the total releases of a chemical to surface waters include the contribution from stormwater if the facility's permit includes stormwater sources. Given the potential difficulty in estimating the contribution of stormwater to the total release of a chemical, EPA is specifically asking for comment on the inclusion of stormwater discharges and how these releases should be estimated and reported.

As discussed in B.3. of this unit, EPA is proposing that facilities that directly discharge wastes to surface waters provide their NPDES permit number. In the release section the respondent would also indicate whether the chemical discharges being reported are specifically limited by the NPDES permit.

3. *Releases to land.* The subsection on releases to land asks for the amounts of a chemical disposed of within the confines of the facility. Types of land-based disposal are identified in the instructions along with a code, which is to be entered on the form. Specific land-based disposal methods include placement in surface impoundments and subsurface disposal in landfills, septic systems and infiltration lagoons, or underground injection wells. Such methods may result in the chemical reaching groundwater. They are grouped as methods of land-disposal to emphasize that reported quantities are to be amounts placed in each type of disposal system. The respondent would report the amounts that are placed in infiltration and/or septic systems as one total since both are designed to allow wastes to percolate into near-surface soil.

For the purposes of this reporting, a surface impoundment denotes a "final" disposal method, and quantities of a chemical added to an impoundment that is part of a wastewater treatment process should generally not be reported here. However, where the impoundment accumulates sludges containing the chemical, quantities should be entered here, unless they are accounted for by other totals (e.g., impoundment dredgings hauled to off-site disposal). An impoundment would, in this regard, mean a type of final disposal.

The respondent would check "yes" in the permit column if the facility has an EPA Identification Number and the chemical is being disposed of as part of a regulated hazardous waste.

4. *Transfers to off-site locations.* In Section VII.D. of the form the respondent would enter the actual amount of the chemical in waste transferred to off-site locations. Addresses for these facilities will have been provided in Section III of the form. First, facilities would be required to estimate releases to POTWs. EPA's and the community's ability to analyze data on releases to water would be greatly enhanced by knowing how much chemical goes to a POTW. EPA and other users would be able to make more accurate assessments of environmental concentrations of the chemical because, for example, estimates of POTW treatment effectiveness can be taken into account.

The other lines in this section are to be used for reporting releases of the chemical to any of the other types of off-site locations identified in Section III.B. of the form. The respondent would also indicate the basis of estimate for the release and whether that release is covered by the permit, i.e., whether the chemical is part of a hazardous waste leaving the facility.

H. Waste Treatment Information

1. *EPA's concept of wastestream for the purpose of this reporting.* Section 313(g)(i)(c)(iii) states that facilities must report "for each wastestream, the waste treatment or disposal methods employed, and an estimate of the treatment efficiency typically achieved. . . ." EPA has proposed a list of codes in the instructions from which facilities can specify a treatment method (e.g., biological treatment, incineration) for each wastestream.

EPA is proposing to consider a wastestream as aggregate wastes treated in a particular manner or the influent stream to a single treatment method. For example, aggregate waste going to secondary wastewater treatment on-site would be reported as a wastestream. Estimates would not be required for each of the numerous waters from various process points that are combined for treatment. EPA recognizes the difficulties involved for a submitter to estimate efficiences for each separately.

If certain wastestreams containing the chemical are treated separately, then individual reporting of each treatment process would be required. For example, one process wastestream could go to carbon adsorption, then be combined with other process waters for secondary treatment. Carbon adsorption would then have to be reported separately as a treatment method.

EPA considered an alternative approach to defining wastestreams which would classify them more specifically by source. In particular, the Resource Conservation and Recovery Act (RCRA) D, F, and K waste codes

could be used where applicable. For example, RCRA code K083 refers to "Distillation bottoms from aniline production." Other source specific codes could be developed for non-RCRA wastestreams.

Knowing the source of each wastestream or wastestream component would allow EPA or other regulatory agencies to link specific listed chemicals and currently regulated hazardous wastes. Such information would permit better identification of toxicity hazards and risks associated with hazardous wastes and would be helpful in decisions to list or delist specific wastestreams under RCRA. In addition, information on source-specific treatment efficiencies could be used as a screening tool for EPA and State programs that regulate chemical releases and set standards based on source-specific control/treatment technologies.

Despite these potential uses, there are a number of difficulties in requiring the more detailed source-specific information. First, in order to fully evaluate waste treatment methods for the purpose of regulatory development, a considerable amount of more detailed technical information would have to be collected. Such data would include unit design and operating features of the treatment equipment, waste throughput, waste composition and physical form, waste pre-treatment, waste components that can interfere with or enhance the treatment process, and whether recyclable materials or usable energy are generated.

Second, companies may consider that wastestream sources reveal trade secret information by revealing specific process or chemical information, whereas Title III allows only chemical name to be claimed trade secret. EPA's program offices have other authorities that would allow them to collect these data while providing mechanisms for protecting valid company trade secrets.

Finally, source-specific waste code reporting would considerably increase the reporting burden because of the large number of wastestreams that must be considered. Each waste treatment process may be associated with multiple source-specific streams, thereby requiring multiple line entries and efficiency estimates for each such process. Given the broad coverage of section 313 reporting, it may not be appropriate to include this level of detail.

Therefore, EPA believes that identifying the specific source of a wastestream (for example, absorber effluent, distillation bottoms, or spent catalyst) should not be included on the proposed form for two major reasons: (1) Without other more detailed information that source wastestream data would have limited usefulness, and (2) it raises trade-secret problems. For the purpose of this proposed form, the wastestreams are being characterized as gaseous emissions, wastewater, non-aqueous liquid wastes, and solid waste (including sludges and slurries).

2. *Waste treatment efficiency.* Although treatment methods are reported for the wastestream containing the listed chemical, the conference committee report states that the treatment efficiency should refer to the listed chemical as opposed to other components of the wastestream. EPA interprets the term "treatment efficiency" to mean the mass percent by which the treatment removes the chemical from the wastestream. An alternative interpretation is that only the mass percent destroyed or chemically converted be reported. Of course, the chemical removed may only be transferred to another waste (e.g., from water to sludge) and release quantities to various media must reflect these transfers. The reporting envisioned for this form would not allow EPA to track sequential treatment processes and subsequent disposal. However, for most treatment methods it will be possible to determine, based solely on the treatment code whether transfers to another medium occurs.

It may be difficult for the facility to ascertain the degree to which the chemical is removed or destroyed. For example, wastewater treatment may treat a chemical waste by simultaneous mechanisms: Evaporation, reaction with other chemicals in the wastewater, biological oxidation, and adsorption to sludge. Treatment efficiency data readily known to a facility represents net removal by all these mechanisms and it is not usually possible to distinguish destruction from removal.

Therefore, EPA proposes that treatment efficiency be expressed as the overall concept of percent removal, whether the specific action taking place is destruction, chemical conversion, physical removal, or some combination.

3. *Indication of influent concentration.* EPA is also proposing that the concentration of the chemical in wastestreams prior to treatment be indicated. The effectiveness of most treatment methods is concentration-dependent and obtaining this information will assist users of the data in determining whether effective treatment methods may be available for wastes containing different amounts of a given chemical. The ranges for reporting are listed in the instructions. Each range covers 2 or 3 orders of magnitude.

4. *Indication of whether the efficiency estimate is based on operating data.* EPA is also proposing that facilities provide a "yes" or "no" indication of whether the treatment efficiency estimate is based on actual operating data. For example, the facility would check "yes" if the estimate is based on monitoring of influent and effluent wastes under typical operating conditions. The facility would check "no" if the efficiency estimate is based on published data for similar processes or on equipment supplier's literature. EPA believes that this indication will be valuable to users of the data in the same way that the "basis of estimate" information is valuable in relation to release estimates. It will provide users of the data with an indication of the relative quality and reliability of the efficiency estimate figure.

I. Optional Information on Waste Minimization

The final section of the form allows the respondent to describe any action taken at the facility in the past year (other than the waste treatment methods specified in Section VIII of the form) to mimimize generation of waste related to the chemical being reported. Actions may include process modifications, changes in operating procedures, product redesign, raw material substitutions, or recycle/reuse which have reduced or eliminated the generation of wastes containing the chemical being reported. This section allows a facility to demonstrate that progress is being made in waste minimization, not just reduction in releases.

For example, yearly reporting may show that a facility has significantly reduced releases of a chemical but the reason for such reduction may not be obvious from the reported data. Alternatively, a great reduction in waste generation may be hidden by the fact that very efficient treatment has always led to little release.

The form asks for: The type of action taken to reduce waste generation (by code); pounds of the reported chemical in the waste in the reporting year; pounds of the reported chemical in the waste in the previous year (or the facility can enter a number for the percent change); an index comparing production level in the reporting year to production level in the previous year; and reasons for taking the action (by code).

The index of production level figure provides a means to sort out changes in waste amount due to level of business activity. For example, if the chemical

were used in coating appliances and 80,000 appliances were produced in 1987 compared to 100,000 in 1986, the index would be 0.8. Any reported waste reduction (or lack of increase) could then be apportioned to the action taken or to change in economic activity. Companies can protect trade secret information since actual production levels would not be reported, nor would "waste per unit production." The production level indicator chosen should most closely represent activities involving the chemical. However, these activities could range from production volume of the chemical itself (or of another chemical using the reported substance) to the dollar value of all products made at the facility. This latter indicator might be most appropriate, for example, in the case where the facility substituted one general purpose solvent with another solvent.

Facilities can use the narrative space provided in this optional section of the form to explain how the modification caused the changes in waste composition or changes in hazard. Such information is expected to be highly valuable to those citizens who are attempting to understand industry progress in reducing releases of chemicals to the environment. It will also permit regulatory agencies to analyze the effectiveness and the extent of use of various techniques for reducing routine releases of toxic chemicals. Such information will be essential to understanding why reductions in releases are observable in long-term data from a facility. Completion of this section is optional because actions that reduce releases could in some cases reveal trade secret information and because the statute does not specifically request information on reductions in releases.

VII. Trade Secret Claims and Substantiation

Section 322 of Title III provides that the specific chemical identity (including the chemical name and other specific identification) may be designated by the submitter as a trade secret. To do so, the submitter would check the box in Section IV.B. of the form indicating that the chemical identity is being claimed as a trade secret. The submitter would also have to enter the generic classification name and code that is pre-assigned by the regulation to that specific toxic chemical. See proposed § 372.42 for these generic classification names. Also, the listings of covered chemicals and chemical categories proposed in § 372.45 of the regulation include a column that contains the pre-assigned generic classification code for that chemical.

If the submitter claims the specific chemical identity as trade secret then a second copy of that report must be included with the submission. This second copy would be a "sanitized" version of the original submission. It would contain all the same information as the original submission except that the space provided for the specific chemical identity (including CAS number, if applicable) would be left blank. This non-trade secret version of the form is the one that will be made available to the public and is the version to be submitted to the State.

Any submitter claiming trade secret protection for a chemical identity must also submit an explanation for this claim in accordance with section 322(a)(2)(ii) of Title III. This explanation must demonstrate: (1) That the submitter has not disclosed the chemical identity to any other person, other than a member of a local emergency planning committee, an officer or employee of the United States or a State or local government, an employee of such person, or a person who is bound by a confidentiality agreement; (2) that the submitter has taken reasonable measures to protect the confidentiality of such information and will continue to take such measures; (3) that the information is not required to be disclosed or otherwise made available to the public under any other Federal or State law; (4) that disclosure of the information is likely to cause substantial harm to the competitive position of the submitter; and (5) that the chemical identity is not readily discoverable through reverse engineering. Failure to submit this explanation as part of the submission will result in immediate disallowance of the trade secrecy claim without further notice to the submitter.

The explanation document itself will be available to the public. However, the submitter may further claim portions of the explanation document as confidential if that information would reveal the chemical identity claimed as a trade secret or would reveal other confidential business or trade secret information. To make this claim the submitter would clearly designate those portions of the explanation document to be claimed as confidential. The submitter would include a certification that those portions of the explanation document claimed as confidential would, if disclosed, reveal the chemical identity being claimed as a trade secret, or would reveal other confidential business or trade secret information. This certification must be signed by the same person that signs the certification statement on the reporting form.

Under section 322(a)(2)(ii) of Title III, a person who claims a specific chemical identity as confidential is required to include an explanation of the reasons for the claim, including a specific description of why the trade secret factors in section 322(b) apply. This explanation is to be included "in the submittal referred to in [section 322(a)(1)]" which in this case is the submittal of the report under section 313. Since the section 313 report is required to be submitted to EPA and "to an official or officials of the State designated by the Governor," section 322(a)(2)(ii) could be read as requiring that the explanation, including any information in it which is trade secret or otherwise confidential under section 322(f), must be submitted to the State as well. However, EPA believes that this reading of section 322(a)(2)(ii) is inconsistent with the remainder of section 322. Accordingly, EPA is proposing that persons submitting reports under section 313 in which the specific chemical identity is claimed as a trade secret would, in addition to submitting a sanitized copy of the form to the State, be required to submit a sanitized copy of the explanation for the trade secret claim to the State and EPA as well. In this way, States and the public at large would be in a better position to determine whether a trade secret claim appears to be valid and, therefore, whether to petition EPA under section 322(d) to review the trade secret claim.

EPA received comments that the trade secret provisions of Title III do not require "up-front substantiation" of a trade secret claim. EPA considers that the statute is quite clear on the requirement that the above-mentioned explanation be provided as part of the submission. That is, the required explanation must be provided "up front." The commenter may be referring to additional, more detailed information that must be submitted, in the event that such trade secret claim is challenged through the public petition process as provided by section 322 of Title III.

Another commenter asserted that emissions of specific chemical substances that could be required under section 104 of the Clean Air Act or under section 304 of the Clean Water Act are data that must be made publically available. Therefore, according to this argument, a submitter of a section 313 report would not be able to claim trade secret the chemical identity associated with such emission. In the commenter's opinion, the submitter would not be able to attest to the fact that such chemical-specific

information is not public knowledge. EPA is reviewing this comment and will address it in connection with the comprehensive Title III trade secret regulations to be proposed by the Agency.

VIII. Recordkeeping

EPA proposes under the general rulemaking authority of section 328 of Title III to require submitters to retain a copy of each report plus the supporting documentation used to complete each report. EPA proposes that these records be retained for a period of 5 years from the date of submission of the report. Such records would be retained at the facility for which the report is submitted and would have to be readily available for purposes of inspection. EPA is requesting comment on the appropriate length of the recordkeeping period.

IX. The Toxic Chemical Release Inventory Data Base

The Toxic Chemical Release Inventory will provide, for the first time, information on toxic chemical releases to all environmental media on a nationwide basis. EPA expects that users of the data base will include Federal, State and local agency officials; private citizens; industry; local and national environmental and citizens organizations; workers and labor organizations; educators; researchers and consultants; private physicians and public health officials; members of the legal community; and the media.

A. Development of a Data Base

Section 313(j) requires EPA to establish and maintain in a computerized data base a national toxic chemical release inventory based on the data submitted. (This inventory should not be confused with the inventory of chemical substances developed and maintained under section 8(b) of the Toxic Substances Control Act.) Further, EPA is required to make this data base accessible to the public by computer telecommunications and other means on a cost reimbursible basis. After the data base has been established and the data for the first reporting period has been entered, EPA will issue a notice for pubication in the **Federal Register** that will instruct potential users regarding access to the data base and procedures for use. Also included in this notice will be instructions on how to obtain information from the data base through means other than computer telecommunications.

B. Identifying Adverse Health and Environmental Effects Information in the Data Base

Section 322(h)(2) of Title III requires EPA to identify the adverse health and environmental effects associated with a toxic chemical that is claimed trade secret and assure that such information be included in the computer data base. The Legislative history associated with this provision further explains that the adverse effects identified should be described in general terms so as not to provide a unique identifier of a particular trade secret chemical.

EPA has identified several options for meeting this requirement of providing adverse effects information relating to trade secret claims. One option would be to develop a cumulative, worst-case effects characterization for the predefined generic class of the chemical. For example, a person using the database determines that a facility is emitting certain quantities of a chemical claimed trade secret. The generic class identity available to the person is "Hydrocarbons." Since such a chemical as benzene, a known human carcinogen, is included in this generic class then the adverse effects characterization would have to include this effect. Chemicals without this effect would be identified as carcinogens if the chemical identity is claimed trade secret. One obvious problem with this approach is that it can overstate the adverse effect of any particular chemical within a generic class.

A second option would be a modified generic identification approach. Rather than the predefined generic classification system proposed in this rule, companies would be required to develop and submit a generic identity for the chemical. EPA would then develop the associated adverse health effects description that relates to the general class or category of the chemical. For example, a company claims the listed chemical aniline trade secret and gives it a generic identity as an "aromatic amine." The adverse effects would then be based on the adverse effects of aromatic amines in general. This approach would be a variation on the first option but could provide the data user with somewhat more specific information. One problem that this option would create is that EPA would not be able to develop the toxic effects for the database until the submission is received, thus possibly delaying the data availability.

A third approach would be to attempt to develop individual adverse effect profiles that would be substance specific but would mask any particular effect that is unique and that could divulge its specific identity. For example, if one of the metals has a unique effect (e.g., kidney toxicity) this effect may have to be generalized to "organ effect."

EPA requests comment on ways to specify adverse effects information in the data base in connection with trade secrecy claims.

X. Economic Impact

EPA has prepared a Regulatory Impact Analysis (RIA) in connection with this proposed rule. The RIA assesses the economic impact of the proposed regulation on the affected industry (manufacturing, SIC codes 20 through 39) and State and Federal governments. The following cost results are presented in the analysis document titled "Regulatory Impact Analysis in Support of the Proposed Rulemaking Under Section 313 of the Superfund Amendments and Reauthorization Act of 1986."

Four alternatives are considered in the RIA for implementing section 313:

Alternative I—Facilities report by letter.

Alternative II—Facilities must report by use of a form, with minimal interpretation of the data elements required by the statute.

Alternative III—Facilities report by form, with additional data elements required (proposed form).

Alternative IV—Facilities report by form, with elements of Alternative III above plus specific source wastestream identification/characterization required.

The population of facilities that would be required to submit reports—forms or letters—under section 313 is based on Census data for facilities engaged in manufacturing, a survey of toxic substances use conducted by the State of New Jersey involving a subset of the substances contained in the list of 329 chemicals covered by section 313, and the Toxic Substances Control Act Inventory.

Section 313 will require reports from an estimated 32,760 facilities. On average, 5.0 toxic substances will need to be reported per covered facility, resulting in a total of 165,100 reports each year.

Estimates of the costs per facility (based on an average of 4 chemicals and 1 mixture per facility) for the proposed form in the first year are $12,467 and $9,426 in subsequent years of reporting. The higher first year costs are expected due to initial one-time costs associated with compliance determination and establishing a methodology for

estimating emissions. Estimates of the cost per facility for each alternative are as follows:

	First year	Second year
Alternative I	$11,110	$8,132
Alternative II	11,931	8,891
Alternative III	12,467	9,426
Alternative IV	12,690	9,650

In the first year of reporting, industry's total compliance costs will range from $427.6 million for Alternative I (letters) to $480.1 million for Alternative IV (version 3 of the form). Over a 10-year projection period, the present value of the costs will range from $1,656 to $2,108.7 million at a discount rate of 10 percent (real).

All the regulatory alternatives appear to be somewhat more costly than if EPA took no action to issue a form and regulation implementing section 313. However, the majority of the overall costs associated with this proposed rule are driven by the statutory provisions. If the letter reporting is taken as a baseline, the proposed form represents approximately a 12 percent increase in the overall costs for industry to comply with section 313 requirements. As explained elsewhere in this preamble, EPA has chosen to develop a form and regulation in order to provide for uniform reporting so that a computerized data base of high quality and utility can be created and maintained.

There is some variability in the costs of the regulatory options (Alternatives II through IV) based on the quantity and type of information required. The proposed regulatory approach (Alternative III) is somewhat more costly than Alternative II. However, EPA believes that this extra cost is justified by the increased utility of the data that this option provides.

The proposed regulatory option asks for information that will improve the ability of communities to track the flow of releases in their areas, specifically reporting on the disposition of substances off-site in treatment, storage, and disposal facilities. Use of the data base is also enhanced by the requirement for data on non-primary manufacturing SIC codes, parent companies, and applicability of section 304 and permits to particular releases. Compared to Alternative IV, the proposed option entails lower costs for industry because it does not require wastestream-specific reporting on treatment methods and percent destruction or conversion of the toxic chemicals.

EPA will incur costs to process, check, store, and make available the data reported under section 313. EPA's costs will vary depending upon its choice of data management systems and policies but are estimated to range from between $4.0 and $13.8 million per year. Over a 10-year period, the present value of EPA's expenses will be $21.0 to $74.0 million discounted at 10 percent. States will have expenses for processing, storing, and distributing reports sent to them. State costs are estimated at $1.0 million per year.

A draft RIA underwent a limited public review and certain comments received have been incorporated. EPA requests comment on the methodology employed, the unit costs, and the results of the RIA. In particular, EPA requests comment on the following issues:

1. How many toxic chemicals will be reported by typical facilities overall?
2. How many additional reports will be associated with the requirement to report on mixtures and trade name products?
3. What are the costs of preparing estimates where information required is not readily available?
4. Are the unit cost estimates reasonable for both industry and government?
5. Are there other activities associated with section 313 that should be considered? What costs are associated with such activities?

XI. Rulemaking Record

The following documents constitute the rulemaking record for this proposed rule (docket control number OPTS-400002). All documents, including the index of this record, are available to the public in the OTS Reading Room from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The OTS Reading Room is located at EPA Headquarters, Rm. NE-G004, 401 M St., SW., Washington, DC 20460. The record includes the following information considered by the Agency in developing this proposed rule:

1. This proposed rule.
2. Summaries of individual meetings held with representatives of industry, public interest groups, and State government officials.
3. Transcripts of public meetings held January 8 and 9, 1987.
4. A summary of comments received at the above-referenced public meetings.
5. Written comments received in connection with draft materials distributed for review prior to the above referenced public meetings.
6. The document titled "Regulatory Impact Analysis in Support of the Proposed Rulemaking Under Section 313 of the Superfund Amendments and Reauthorization Act of 1986." (May 1987).
7. Written comments on the above-referenced regulatory analysis.
8. The technical guidance document titled, "Guidance for Determining Releases and Waste Treatment Efficiency for the Toxic Chemical Release Inventory."
9. Written comments received in connection with the above-referenced guidance document.
10. The support document titled, "Toxic Chemical Release Inventory—Glossary of Synonyms."

XII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a regulatory impact analysis. EPA has developed a regulatory impact analysis. This analysis shows that the combination of impacts of the statutory provisions of section 313 and the interpretive provisions of this proposed regulation may create a first year impact of $472.7 million and a second year impact of $311.8 million. However, the incremental impact of EPA's form as represented in this proposed rule accounts for only 12 percent of the total impact. As discussed elsewhere in this preamble, facilities will have to report the information outlined in section 313 by letter if EPA does not publish a uniform reporting form. In any event, EPA has determined that this proposed rule, considered in combination with the mandated provisions of section 313, is "major" because it may have an effect of $100 million or more on the economy. EPA does not, however, anticipate that this proposed rule will have a significant effect on competition, costs, or prices.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

The proposed rule does not specifically exempt small businesses, nor does the statute. However, the statute and this proposed rule do exempt facilities with fewer than 10 full-time employees or facilities whose chemical manufacturing, processing, or use activities do not meet certain volume thresholds. EPA estimates that Section 313 will require reporting from approximately 3 percent (8,520 of 286,000) of all of the small manufacturing facilities.

Preliminary analysis of the impacts of the proposed rule on small entities (included in the RIA as an appendix) indicates that for some segments of the manufacturing sector the compliance costs may have a significant impact. Specifically, the reporting costs are estimated to be 2.0 to 3.0 percent of median sales for facilities with 10 to 19 employees in SIC codes 25 (furniture), 27 (printing and publishing), and 30 (rubber and miscellaneous plastics). The number of facilities affected is estimated to be 635, which represents 0.2 percent of all manufacturing facilities with less than 50 employees. The number of small businesses affected is not known but would be fewer than 635. Although this represents a very small percentage of all small facilities, the absolute numbers of facilities affected is of concern. Moreover, given the uncertainties in the data upon which the RIA is based, other reporting requirements of SARA Title III that may affect the same facilities, and concerns raised by the Small Business Administration, EPA believes that it is prudent public policy to assume that the requirements of the Regulatory Flexibility Act (Pub. L. 96–354) have been triggered.

The RIA and appendix on small facility impacts serves as the Initial Regulatory Flexibility Analysis required by the Regulatory Flexibility Act. EPA intends to revise this analysis prior to promulgation of the final rule. EPA requests comment on the methodology employed in the analysis, the breakdown of facility sizes, and the results of the analysis. EPA is especially interested in receiving comments from small entities in SIC codes 25, 27, and 30 and from members of the public who might be affected by releases from small entities. In particular, EPA requests comment on the following issues:

1. Are there data to support exemptions to the proposed rule on the basis of facility size (number of employees, sales, production volume), SIC code, or quantity of release.

2. Which questions on the proposed form are particularly burdensome?

3. What kind of guidance could EPA provide to reduce the burden to small entities?

C. Paperwork Reduction Act

OMB has reviewed the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Submit comments on these requirements to The Office of Information and Regulatory Affairs: OMB: 726 Jackson Place, NW., Washington, DC 20503 marked "Attention Desk Officer for EPA."

The Final Rule will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 372

Environmental protection, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: May 27, 1987.

Lee M. Thomas,

Administrator.

Therefore, it is proposed that Chapter I of 40 CFR be amended by adding a new Part 372 to read as follows:

PART 372—TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Subpart A—General Provisions

Sec.

Subpart B—[Reserved]

Subpart C—Specific Toxic Chemical Listings

Subpart D—Reporting Forms and Instructions

Authority: Pub. L. 99–499.

Subpart A—General Provisions

§ 372.1 Scope and purpose.

This part sets forth requirements for the submission of information relating to the release of toxic chemicals under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986. The information collected under this part is intended to inform the general public and the communities surrounding covered facilities about releases of toxic chemicals, to assist research, to aid in the development of regulations, guidelines, and standards, and for other purposes.

§ 372.3 Definitions.

Terms defined in sections 313(b)(1)(c) and 329 of Title III and not explicitly defined herein are used with the meaning given in Title III. For the purpose of this part:

"Act" means Title III.

"Article" means a manufactured item which is formed to a specific shape or design during manufacture, which has end use function(s) dependent in whole or in part upon its shape or design during end use, and which has either no change in chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, and that result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except that fluids and particles are not considered articles regardless of shape or design.

"Customs territory of the United States" means the 50 States, the District of Columbia, and Puerto Rico.

"EPA" means the United States Environmental Protection Agency.

"Facility" means all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by or under common control with, such person).

"Import" means to import a chemical substance into the customs territory of the United States.

"Manufacture" means to produce, prepare, import, or compound a toxic chemical. Manufacture also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including byproducts and coproducts that are separated from that other substance or mixture, and impurities that remain in that substance or mixture.

"Otherwise use" or "otherwise used" means any use of a toxic chemical that is not covered by the terms "manufacture" or "process" and includes use of a toxic chemical contained in a mixture or trade name product.

"Process" means the preparation of a toxic chemical, after its manufacture, for distribution in commerce—

(1) In the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance, or

(2) As part of an article containing the toxic chemical.

Process also applies to the processing of a toxic chemical contained in a mixture or trade name product.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the

abandonment or discarding of barrels, containers, and other closed receptacles) of any toxic chemical.

"Title III" means Title III of the Superfund Amendments and Reauthorization Act of 1986, also titled the Emergency Planning and Community Right-To-Know Act of 1986.

"Toxic chemical" means a chemical or chemical category listed in § 372.45.

§ 372.5 Persons who must report.

Owners and operators of covered facilities described in § 372.10 are subject to the requirements of this part. If the owner and operator of a covered facility are different persons, only one need report for each toxic chemical required to be reported under this part. However, if no report is submitted, EPA will hold both the owner and the operator liable under section 325(c) of Title III.

§ 372.10 Covered facilities.

A facility that meets all of the following criteria for a calendar year is a covered facility for that calendar year.

(a) The facility has 10 or more full-time employees.

(b) The facility is in Standard Industrial Classification Codes 20 through 39 as in effect on January 1, 1987.

(c) The facility manufactured (including imported), processed, or otherwise used a toxic chemical in excess of an applicable threshold quantity of that chemical set forth in § 372.12 .

§ 372.12 Thresholds for reporting.

The threshold amounts for purposes of reporting under this Part for toxic chemicals are as follows:

(a) With respect to a toxic chemical manufactured (including imported) or processed at a facility during the following calendar years:

1987—75,000 pounds of the chemical for the year.
1988—50,000 pounds of the chemical for the year.
1989 and thereafter—25,000 pounds of the chemical for the year.

(b) With respect to a chemical otherwise used at a facility, 10,000 pounds of the chemical for the applicable calendar year.

§ 372.15 Reporting requirements and schedule for reporting.

A person subject to this Part must submit to EPA and to the State in which the covered facility is located a completed EPA Form R (EPA Form 7740-20) for each toxic chemical manufactured (including imported), processed, or otherwise used in excess of an applicable threshold quantity in § 372.12 for a calendar year. A report must be submitted for releases of the toxic chemical that occurred during that calendar year at that facility on or before July 1 of the next year. The first such report for calendar year 1987 must be submitted on or before July 1, 1988.

§ 372.16 Recordkeeping.

(a) Each person subject to the reporting requirements of this Part must retain the following records for a period of 5 years following the submission of a report:

(1) A copy of the report submitted by the person in response to the requirements of this Part.

(2) All supporting materials and documentation used by the person to complete each report.

(b) Records retained under this section must be retained at the facility to which the report applies. Such records must be readily available for purposes of inspection by EPA.

(c) If the facility closes permanently, the records retained under this section must be transfered to and retained by the owner or operator of the facility. If there is no separate owner or operator then such records must be sent to EPA.

§ 372.19 Compliance and enforcement.

Violators of the requirements of this part are subject to the civil and administrative penalties as provided in section 325(c) of Title III.

Subpart B—[Reserved]

Subpart C—Specific Toxic Chemical Listings

§ 372.42 Generic classification of listed chemicals and chemical categories for purposes of trade secrecy claims.

The following generic classification names and codes are to be used when the identity of a chemical or chemical category listed in § 372.45 of this part is claimed a trade secret. All chemicals and chemical categories listed in § 372.45 have been assigned one of the generic classifications as indicated by the code that appears in the column titled "Generic Classification Code." The generic classification names and codes are listed in the following Table 1:

TABLE 1.—CHEMICAL CLASSIFICATIONS AND CATEGORIES

Generic classifications	Code
Hydrocarbons	C01
Halogenated alkanes	C02
Halogenated alkenes	C03
Halogenated aromatics	C04
Hydroxy compounds	C05
Ethers and epoxides	C06
Aldehydes and ketones	C07
Carboxylic acids, esters, anhydrides, lactones	C08
Other carboxylic acid derivatives	C09
Amines	C10
Amine derivatives	C11
Nitro and nitroso compounds	C12
Phosphorus and sulfur compounds	C13
Azo and hydrazo compounds	C14
Metal containing compounds	C15
Non-metal containing inorganic compounds	C16

§ 372.45 Chemicals and chemical categories to which this part applies.

The reporting requirements of this Part apply to the following chemicals and chemical categories. This section contains three listings. Paragraph (a) of this section is an alphabetical order listing of those chemicals that have an associated Chemical Abstracts Service (CAS) Registry number. Paragraph (b) of this section contains a CAS number order list of the same chemicals listed in paragraph (a) of this section. Paragraph (c) of this section contains the chemical categories for which reporting is required. These chemical categories are listed in alphabetical order.

(a) Alphabetical listing.

Chemical name	CAS No.	Generic classification code	Effective date
Acetaldehyde	75-07-0	C07	01/01/87
Acetamide	60-35-5	C09	01/01/87
Acetone	67-64-1	C07	01/01/87
Acetonitrile	75-05-8	C11	01/01/87
2-Acetylaminofluorene	53-96-3	C10	01/01/87

Chemical name	CAS No.	Generic classification code	Effective date
Acrolein	107-02-8	C07	01/01/87
Acrylamide	79-06-1	C09	01/01/87
Acrylic acid	79-10-7	C08	01/01/87
Acrylonitrile	107-13-1	C11	01/01/87
Aldrin [1,4:5,8-Dimethanonaphthalene,1,2,3,4,10,10-hexachloro-1,4,4a, 5,8,8a-hexahydro-(1.alpha.,4.alpha.,4a.beta.,5.alpha.,8.alpha.,8a.beta.)-]	309-00-2	C03	01/01/87
Allyl chloride	107-05-1	C03	01/01/87
Aluminum (fume or dust)	7429-90-5	C15	01/01/87
Aluminum oxide	1344-28-1	C15	01/01/87
2-Aminoanthraquinone	117-79-3	C10	01/01/87
4-Aminoazobenzene	60-09-3	C10	01/01/87
4-Aminobiphenyl	92-67-1	C10	01/01/87
1-Amino-2-methylanthraquinone	82-28-0	C10	01/01/87
Ammonia	7664-41-7	C16	01/01/87
Ammonium nitrate (solution)	6484-52-2	C16	01/01/87
Ammonium sulfate (solution)	7783-20-2	C16	01/01/87
Aniline	62-53-3	C10	01/01/87
o-Anisidine	90-04-0	C10	01/01/87
p-Anisidine	104-94-9	C10	01/01/87
o-Anisidine hydrochloride	134-29-2	C10	01/01/87
Anthracene	120-12-7	C01	01/01/87
Antimony	7440-36-0	C15	01/01/87
Arsenic	7440-38-2	C15	01/01/87
Asbestos (friable)	1332-21-4	C16	01/01/87
Auramine [Benzeneamine, 4,4'-carbonimidoylbis[N,N-dimethyl-]	492-80-8	C10	01/01/87
Barium	7440-39-3	C15	01/01/87
Benzal chloride	98-87-3	C02	01/01/87
Benzamide	55-21-0	C09	01/01/87
Benzene	71-43-2	C01	01/01/87
Benzidine	92-87-5	C10	01/01/87
Benzoic trichlorides (Benzotrichloride)	98-07-7	C02	01/01/87
Benzoyl chloride	98-88-4	C09	01/01/87
Benzoyl peroxide	94-36-0	C09	01/01/87
Benzyl chloride	100-44-7	C02	01/01/87
Beryllium	7440-41-7	C15	01/01/87
Biphenyl	92-52-4	C01	01/01/87
Bis(2-chloroethyl) ether	111-44-4	C06	01/01/87
Bis(chloromethyl) ether	542-88-1	C06	01/01/87
Bis(2-chloro-1-methylethyl) ether	108-60-1	C06	01/01/87
Bis(2-ethylhexyl) adipate	103-23-1	C08	01/01/87
Bromoform (Tribromomethane)	75-25-2	C02	01/01/87
Bromomethane (Methyl bromide)	74-83-9	C02	01/01/87
1,3-Butadiene	106-99-0	C01	01/01/87
Butyl acrylate	141-32-2	C08	01/01/87
n-Butyl alcohol	71-36-3	C05	01/01/87
sec-Butyl alcohol	78-92-2	C05	01/01/87
tert-Butyl alcohol	75-65-0	C05	01/01/87
Butyl benzyl phthalate	85-68-7	C08	01/01/87
1,2-Butylene oxide	106-88-7	C06	01/01/87
Butyraldehyde	123-72-8	C07	01/01/87
C.I. Acid Blue 9, diammonium salt	2650-18-2	C13	01/01/87
C.I. Acid Blue 9, disodium salt	3844-45-9	C13	01/01/87
C.I. Acid Green 3	4680-78-8	C13	01/01/87
C.I. Basic Green 4	569-64-2	C10	01/01/87
C.I. Basic Red 1	989-38-8	C10	01/01/87
C.I. Disperse Yellow 3	2832-40-8	C14	01/01/87
C.I. Food Red 5	3761-53-3	C14	01/01/87
C.I. Food Red 15	81-88-9	C10	01/01/87
C.I. Solvent Orange 7	3118-97-6	C14	01/01/87
C.I. Solvent Yellow 3	97-56-3	C14	01/01/87
C.I. Solvent Yellow 14	842-07-9	C14	01/01/87
C.I. Vat Yellow 4	128-66-5	C07	01/01/87
Cadmium	7440-43-9	C15	01/01/87
Calcium cyanamide	156-62-7	C11	01/01/87
Captan [1H-Isoindole-1,3(2H)-dione,3a,4,7,7a-tetrahydro-2- [(trichloromethyl)thio]-]	133-06-2	C13	01/01/87
Carbaryl [1-Naphthalenol,methylcarbamate]	63-25-2	C09	01/01/87
Carbon disulfide	75-15-0	C13	01/01/87
Carbon tetrachloride	56-23-5	C02	01/01/87
Carbonyl sulfide	463-58-1	C13	01/01/87
Catechol	120-80-9	C05	01/01/87
Chloramben [Benzoic acid, 5-amino-2,5-dichloro-]	133-90-4	C11	01/01/87

Chemical name	CAS No.	Generic classification code	Effective date
Chlordane [4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a- hexahydro-]	57-74-9	C03	01/01/87
Chlorinated fluorocarbon (Freon 113)[Ethane, 1,1,2-trichloro-1,2, 2-trifluoro-]	76-13-1	C02	01/01/87
Chlorine	7782-50-5	C16	01/01/87
Chlorine dioxide	10049-04-4	C16	01/01/87
Chloroacetic acid	79-11-8	C08	01/01/87
2-Chloroacetophenone	532-27-4	C07	01/01/87
Chlorobenzene	108-90-7	C04	01/01/87
Chlorobenzilate [Benzeneacetic acid, 4-chloro-.alpha.-(4-chlorophenyl)-.alpha.-hydroxy-, ethyl ester]	510-15-6	C08	01/01/87
Chloroethane (Ethyl chloride)	75-00-3	C02	01/01/87
Chloroform	67-66-3	C02	01/01/87
Chloromethane (Methyl chloride)	74-87-3	C02	01/01/87
Chloromethyl methyl ether	107-30-2	C06	01/01/87
Chloroprene	126-99-8	C03	01/01/87
Chlorothalonil [1,3-Benzenedicarbonitrile,2,4,5,6-tetrachloro-]	1897-45-6	C09	01/01/87
Chromium	7440-47-3	C15	01/01/87
Cobalt	7440-48-4	C15	01/01/87
Copper	7440-50-8	C15	01/01/87
p-Cresidine	120-71-8	C06	01/01/87
Cresol (mixed isomers)	1319-77-3	C05	01/01/87
m-Cresol	108-39-4	C05	01/01/87
o-Cresol	95-48-7	C05	01/01/87
p-Cresol	106-44-5	C05	01/01/87
Cumene	98-82-8	C0I	01/01/87
Cumene hydroperoxide	80-15-9	C05	01/01/87
Cupferron [Benzeneamine, N-hydroxy-N-nitroso, ammonium salt]	135-20-6	C12	01/01/87
Cyanide compounds	57-12-5	C16	01/01/87
Cyclohexane	110-82-7	C01	01/01/87
2,4-D [Acetic acid, (2,4-dichloro-phenoxy)-]	94-75-7	C08	01/01/87
Decabromodiphenyl oxide	1163-19-5	C04	01/01/87
Diallate [Carbamothioic acid, bis(1-methylethyl)-, S-(2,3- dichloro-2-propenyl) ester]	2303-16-4	C13	01/01/87
2,4-Diaminoanisole	615-05-4	C10	01/01/87
2,4-Diaminoanisole sulfate	39156-41-7	C10	01/01/87
4,4'-Diaminodiphenyl ether	101-80-4	C10	01/01/87
Diaminotoluene (mixed isomers)	25376-45-8	C10	01/01/87
2,4-Diaminotoluene	95-80-7	C10	01/01/87
Diazomethane	334-88-3	C11	01/01/87
Dibenzofuran	132-64-9	C06	01/01/87
1,2-Dibromo-3-chloropropane (DBCP)	96-12-8	C02	01/01/87
1,2-Dibromoethane (Ethylene dibromide)	106-93-4	C02	01/01/87
Dibutyl phthalate	84-74-2	C08	01/01/87
Dichlorobenzene (mixed isomers)	25321-22-6	C04	01/01/87
1,2-Dichlorobenzene	95-50-1	C04	01/01/87
1,3-Dichlorobenzene	541-73-1	C04	01/01/87
1,4-Dichlorobenzene	106-46-7	C04	01/01/87
3,3'-Dichlorobenzidine	91-94-1	C10	01/01/87
Dichlorobromomethane	75-27-4	C02	01/01/87
1,2-Dichloroethane (Ethylene dichloride)	107-06-2	C02	01/01/87
1,2-Dichloroethylene	540-59-0	C03	01/01/87
Dichloromethane (Methylene chloride)	75-09-2	C02	01/01/87
2,4-Dichlorophenol	120-83-2	C04	01/01/87
1,2-Dichloropropane	78-87-5	C02	01/01/87
1,3-Dichloropropylene	542-75-6	C03	01/01/87
Dichlorvos [Phosphoric acid, 2,2-dichloroethenyl dimethyl ester]	62-73-7	C13	01/01/87
Dicofol [Benzenemethanol, 4-chloro-.alpha.-(4-chlorophenyl).alpha.-(trichloromethyl)-]	115-52-2	C04	01/01/87
Diepoxybutane	1464-53-5	C06	01/01/87
Diethanolamine	111-42-2	C10	01/01/87
Di-(2-ethylhexyl) phthalate (DEHP)	117-81-7	C08	01/01/87
Diethyl phthalate	84-66-2	C08	01/01/87
Diethyl sulfate	64-67-5	C13	01/01/87
3,3'-Dimethoxybenzidine	119-90-4	C10	01/01/87
4-Dimethylaminoazobenzene	60-11-7	C10	01/01/87
3,3'-Dimethylbenzidine(*o*-Tolidine)	119-93-7	C10	01/01/87
Dimethylcarbamyl chloride	79-44-7	C09	01/01/87
1,1-Dimethyl hydrazine	57-14-7	C11	01/01/87
2,4-Dimethylphenol	105-67-9	C05	01/01/87
Dimethyl phthalate	131-11-3	C08	01/01/87
Dimethyl sulfate	77-78-1	C13	01/01/87
4,6-Dinitro-*o*-cresol	534-52-1	C12	01/01/87
2,4-Dinitrophenol	51-28-5	C12	01/01/87
2,4-Dinitrotoluene	121-14-2	C12	01/01/87

Chemical name	CAS No.	Generic classification code	Effective date
2,6-Dinitrotoluene	606-20-2	C12	01/01/87
n-Dioctyl phthalate	117-84-0	C08	01/01/87
1,4-Dioxane	123-91-1	C06	01/01/87
1,2-Diphenylhydrazine(Hydrazobenzene)	122-66-7	C11	01/01/87
Direct Black 38	1937-37-7	C14	01/01/87
Direct Blue 6	2602-46-2	C14	01/01/87
Direct Brown 95	16071-86-6	C14	01/01/87
Epichlorohydrin	106-89-8	C06	01/01/87
2-Ethoxyethanol	110-80-5	C06	01/01/87
Ethyl acrylate	140-88-5	C08	01/01/87
Ethylbenzene	100-41-4	C01	01/01/87
Ethyl chloroformate	541-41-3	C09	01/01/87
Ethylene	74-85-1	C01	01/01/87
Ethylene glycol	107-21-1	C05	01/01/87
Ethyleneimine (Aziridine)	151-56-4	C11	01/01/87
Ethylene oxide	75-21-8	C06	01/01/87
Ethylene thiourea	96-45-7	C13	01/01/87
Fluometuron [Urea, N,N-dimethyl-N'-[3-(trifluoromethyl)phenyl]-]	2164-17-2	C09	01/01/87
Formaldehyde	50-00-0	C07	01/01/87
Heptachlor [1,4,5,6,7,8,8-Heptachloro-3a,4,7,7a-tetrahydro-4,7- methano-1H-indene]	76-44-8	C03	01/01/87
Hexachlorobenzene	118-74-1	C04	01/01/87
Hexachloro 1,3-butadiene	87-68-3	C03	01/01/87
Hexachlorocyclopentadiene	77-47-4	C03	01/01/87
Hexachloroethane	67-72-1	C02	01/01/87
Hexachloronaphthalene	1335-87-1	C04	01/01/87
Hexamethylphosphoramide	680-31-9	C13	01/01/87
Hydrazine	302-01-2	C11	01/01/87
Hydrazine sulfate	10034-93-2	C11	01/01/87
Hydrochloric acid	764-01-07	C16	01/01/87
Hydrogen cyanide	74-90-8	C16	01/01/87
Hydrogen fluoride	7664-39-3	C16	01/01/87
Hydroquinone	123-31-9	C07	01/01/87
Isobutyraldehyde	78-84-2	C07	01/01/87
Isopropyl alcohol (mfg.—strong acid processes)	67-63-0	C05	01/01/87
4,4'-Isopropylidenediphenol	80-05-7	C05	01/01/87
Lead	7439-92-1	C15	01/01/87
Lindane [Cyclohexane, 1,2,3,4,5,6-hexachloro-,(1.alpha.,2.alpha., 3.beta. 4.alpha.,5.alpha.,6.beta.)-]	58-89-9	C02	01/01/87
Maleic anhydride	108-31-6	C08	01/01/87
Maneb [Carbamodithioic acid, 1,2-ethanediylbis-, manganese complex]	12427-38-2	C16	01/01/87
Manganese	7439-96-5	C15	01/01/87
Melamine	108-78-1	C10	01/01/87
Mercury	7439-97-6	C15	01/01/87
Methanol	67-56-1	C05	01/01/87
Methoxychlor [Benzene, 1,1'-(2,2 2-trichloroethylidene)bis[4-methoxy-]	72-43-5	C03	01/01/87
2-Methoxyethanol	109-86-4	C06	01/01/87
Methyl acrylate	96-33-3	C08	01/01/87
Methyl *tert*-butyl ether	1634-04-4	C06	01/01/87
4,4'-Meth lenebis(2-chloro aniline) (MBOCA)	101-14-4	C10	01/01/87
4,4'-Methylenebis(*N N*-dimethyl) benzenamine	101-61-1	C10	01/01/87
Methylenebis(phenylisocyanate) (MBI)	101-68-8	C11	01/01/87
Methylene bromide	74-95-3	C02	01/01/87
4,4'-Methylenedianiline	101-77-9	C10	01/01/87
Methyl ethyl ketone	78-93-3	C07	01/01/87
Methyl hydrazine	60-34-4	C11	01/01/87
Methyl iodide	74-88-4	C02	01/01/87
Methyl isobutyl ketone	108-10-1	C07	01/01/87
Methyl isocyanate	624-85-9	C11	01/01/87
Methyl methacrylate	80-62-6	C08	01/01/87
Michler's ketone	90-94-8	C07	01/01/87
Molybdenum trioxide	1313-27-5	C15	01/01/87
Mustard gas [Ethane, 1,1'-thiobis[2-chloro-]	505-60-2	C13	01/01/87
Naphthalene	91-20-3	C01	01/01/87
alpha-Naphthylamine	134-32-7	C10	01/01/87
beta-Naphthylamine	91-59-8	C10	01/01/87
Nickel	7440-02-0	C15	01/01/87
Nitric acid	7697-37-2	C16	01/01/87
Nitrilotriacetic acid	139-13-9	C08	01/01/87
5-Nitro-*o*-anisidine	99-59-2	C12	01/01/87
Nitrobenzene	98-95-3	C12	01/01/87
4-Nitrobiphenyl	92-93-3	C12	01/01/87

Chemical name	CAS No.	Generic classification code	Effective date
Nitrofen [Benzene, 2,4-dichloro-1-(4-nitrophenoxy)-]	1836-75-5	C15	01/01/87
Nitrogen mustard [2-Chloro-N-(2-chloroethyl)-N-methylethanamine]	51-75-2	C10	01/01/87
Nitroglycerin	55-63-0	C12	01/01/87
2-Nitrophenol	88-75-5	C12	01/01/87
4-Nitrophenol	100-02-7	C12	01/01/87
2-Nitropropane	79-46-9	C12	01/01/87
p Nitrosodiphenylamine	156-10-5	C12	01/01/87
N,N-Dimethylaniline	121-69-7	C10	01/01/87
N-Nitrosodi-*n*-butylamine	924-16-3	C12	01/01/87
N-Nitrosodiethylamine	55-18-5	C12	01/01/87
N-Nitrosodimethylamine	62-75-9	C12	01/01/87
N-Nitrosodiphenylamine	86-30-6	C12	01/01/87
N-Nitrosodi-*n*-propylamine	621-64-7	C12	01/01/87
N-Nitrosomethylvinylamine	4549-40-0	C12	01/01/87
N-Nitrosomorpholine	59-89-2	C12	01/01/87
N-Nitroso-*N*-ethylurea	759-73-9	C12	01/01/87
N-Nitroso-*N*-methylurea	684-93-5	C12	01/01/87
N-Nitrosonornicotine	16543-55-8	C12	01/01/87
N-Nitrosopiperidine	100-75-4	C12	01/01/87
Octachloronaphthalene	2234-13-1	C04	01/01/87
Osmium tetroxide	20816-12-0	C15	01/01/87
Parathion [Phosphorothioic acid, 0,0-dieth 1-0-(4-nitrophenyl)ester]	56-38-2	C13	01/01/87
Pentachlorophenol (PCP)	87-86-5	C04	01/01/87
Peracetic acid	79-21-0	C09	01/01/87
Phenol	108-95-2	C05	01/01/87
p-Phenylenediamine	106-50-3	C10	01/01/87
2-Phenylphenol	90-43-7	C05	01/01/87
Phosgene	75-44-5	C09	01/01/87
Phosphoric acid	7664-38-2	C16	01/01/87
Phosphorus (yellow or white)	7723-14-0	C16	01/01/87
Phthalic anhydride	85-44-9	C08	01/01/87
Picric acid	88-89-1	C08	01/01/87
Polychlorinated biphenyls (PCBs)	1336-36-3	C04	01/01/87
Propane sultone	1120-71-4	C13	01/01/87
beta-Propiolactone	57-57-8	C08	01/01/87
Propionaldehyde	123-38-6	C07	01/01/87
Propoxur [Phenol, 2-(1-methylethoxy)-,methylcarbamate]	114-26-1	C09	01/01/87
Propylene (Propene)	115-07-1	C01	01/01/87
Propyleneimine	75-55-8	C11	01/01/87
Propylene oxide	75-56-9	C06	01/01/87
Pyridine	110-86-1	C11	01/01/87
Quinoline	91-22-5	C11	01/01/87
Quinone	106-51-4	C07	01/01/87
Quintozene [Benzene, pentachloronitro-]	82-68-8	C12	01/01/87
Saccharin (manufacturing) [1,2-Benzisothiazol-3(2H)-one,1,1-dioxide]	81-07-2	C09	01/01/87
Safrole	94-59-7	C06	01/01/87
Selenium	7782-49-2	C16	01/01/87
Silver and compounds	7440-22-4	C15	01/01/87
Sodium hydroxide (solution)	1310-73-2	C16	01/01/87
Sodium sulfate (solution)	7757-82-6	C16	01/01/87
Styrene	100-42-5	C01	01/01/87
Styrene oxide	96-09-3	C06	01/01/87
Sulfuric acid	7664-93-9	C16	01/01/87
Terephthalic acid	100-21-0	C08	01/01/87
1,1,2,2-Tetrachloroethane	79-34-5	C02	01/01/87
Tetrachloroethylene (Perchloroethylene)	127-18-4	C03	01/01/87
Tetrachlorvinphos [Phosphoric acid, 2-chloro-1-(2,4,5-trichlorophenyl)ethenyl dimethyl ester]	961-11-5	C13	01/01/87
Thallium	7440-28-0	C15	01/01/87
Thioacetamide	62-55-5	C13	01/01/87
4,4'-Thiodianiline	139-65-1	C13	01/01/87
Thiourea	62-56-6	C13	01/01/87
Thorium dioxide	1314-20-1	C15	01/01/87
Titanium dioxide	13463-67-7	C15	01/01/87
Titanium tetrachloride	7550-45-0	C15	01/01/87
Toluene	108-88-3	C01	01/01/87
Toluene 2,4 diisocyanate	584-84-9	C11	01/01/87
Toluene-2,6-diisocyanate	91-08-7	C11	01/01/87
o-Toluidine	95-53-4	C10	01/01/87
o-Toluidine hydrochloride	636-21-5	C10	01/01/87
Toxaphene	8001-35-2	C02	01/01/87

Chemical name	CAS No.	Generic classification code	Effective date
Triaziquone [2,5-Cyclohexadiene-1,4-dione,2,3,5-tris(1-aziridinyl)-]	68-76-8	C11	01/01/87
Trichlorfon [Phosphonic acid, (2,2,2-trichloro-1-hydroxyethyl)-,dimethyl ester]	52-68-6	C13	01/01/87
1,2,4-Trichlorobenzene	120-82-1	C04	01/01/87
1,1,1-Trichloroethane (Methyl chloroform)	71-55-6	C02	01/01/87
1,1,2-Trichloroethane	79-00-5	C02	01/01/87
Trichloroethylene	79-01-6	C03	01/01/87
2,4,5-Trichlorophenol	95-95-4	C04	01/01/87
2,4,6 Trichlorophenol	88-06-2	C04	01/01/87
Trifluralin [Benzeneamine, 2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)-]	1582-09-8	C12	01/01/87
1,2,4-Trimethylbenzene	95-63-6	C01	01/01/87
Tris(2,3-dibromopropyl) phosphate	126-72-7	C13	01/01/87
Urethane (Ethyl carbamate)	51-79-6	C09	01/01/87
Vanadium (fume or dust)	7440-62-2	C15	01/01/87
Vinyl acetate	108-05-4	C08	01/01/87
Vinyl bromide	593-60-2	C03	01/01/87
Vinyl chloride	75-01-4	C03	01/01/87
Vinylidene chloride	75-35-4	C03	01/01/87
Xylene (mixed isomers)	1330-20-7	C01	01/01/87
m-Xylene	108-38-3	C01	01/01/87
o-Xylene	95-47-6	C01	01/01/87
p-Xylene	106-42-3	C01	01/01/87
2,6-Xylidine	87-62-7	C10	01/01/87
Zinc (fume or dust)	7440-66-6	C15	01/01/87
Zineb [Carbamodithioic acid, 1,2-ethanediylbis-, zinc complex]	12122-67-7	C15	01/01/87

(b) *CAS Number listing.*

CAS No.	Chemical name	Generic classification code	Effective date
50-00-0	Formaldehyde	C07	01/01/87
51-28 5	2,4-Dinitrophenol	C12	01/01/87
51-75-2	Nitrogen mustard [2-Chloro-N-(2-chloroethyl) -N-methylethanamine]	C10	01/01/87
51-79-6	Urethane (Ethyl carbamate)	C09	01/01/87
52-68-6	Trichlorfon [Phosphonic acid, (2,2,2-trichloro-1-hydroxyethyl)-, dimethyl ester]	C13	01/01/87
53-96-3	2-Acetylaminofluorene	C10	01/01/87
55-18-5	*N*-Nitrosodiethylamine	C12	01/01/87
55-21-0	Benzamide	C09	01/01/87
55-63-0	Nitroglycerin	C12	01/01/87
56-23-5	Carbon tetrachloride	C02	01/01/87
56-38-2	Parathion [Phosphorothioic acid, 0, 0-diethyl 1-0-(4-nitrophenyl) ester]	C13	01/01/87
57-12-5	Cyanide compounds	C16	01/01/87
57-14-7	1,1-Dimethyl hydrazine	C11	01/01/87
57-57-8	*beta*-Propiolactone	C08	01/01/87
57-74-9	Chlordane [4, 7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-]	C03	01/01/87
58-89-9	Lindane [Cyclohexane 1,2,3,4,5,6-hexachloro-,(1.alpha.,2. alpha.,3.beta.,4.alpha.,5.alpha.,6.beta.)-].	C02	01/01/87
59-89-2	*N*-Nitrosomorpholine	C12	01/01/87
60-09-3	4-Aminoazobenzene	C10	01/01/87
60-11-7	4-Dimethylaminoazobenzene	C10	01/01/87
60-34-4	Methyl hydrazine	C11	01/01/87
60-35-5	Acetamide	C09	01/01/87
62-53-3	Aniline	C10	01/01/87
62-55-5	Thioacetamide	C13	01/01/87
62-56-6	Thiourea	C13	01/01/87
62-73-7	Dichlorvos [Phosphoric acid, 2,2-dichloroethenyl dimethyl ester]	C13	01/01/87
62-75-9	*N*-Nitrosodimethylamine	C12	01/01/87
63-25-2	Carbaryl [1-Naphthalenol methylcarbamate]	C09	01/01/87
64-67-5	Diethyl sulfate	C13	01/01/87
67-56-1	Methanol	C05	01/01/87
67-63-0	Isopropyl alcohol (mfg.—strong acid processes)	C05	01/01/87
67-64-1	Acetone	C07	01/01/87
67-66-3	Chloroform	C02	01/01/87
67-72-1	Hexachloroethane	C02	01/01/87
68-76-8	Triaziquone [2,5-Cyclohexadiene-1,4-dione, 2,3,5-tris (1-aziridinyl)-]	C11	01/01/87
71-36-3	*n*-Butyl alcohol	C05	01/01/87
71-43-2	Benzene	C01	01/01/87

CAS No.	Chemical name	Generic classification code	Effective date
71-55-6	1,1,1-Trichloroethane (Methyl chloroform)	C02	01/01/87
72-43-5	Methoxychlor [Benzene, 1,1'-(2,2, 2-trichloroethylidene)bis [4-methoxy-]	C03	01/01/87
74-83-9	Bromomethane (Methyl bromide)	C02	01/01/87
74-85-1	Ethylene	C01	01/01/87
74-87-3	Chloromethane (Methyl chloride)	C02	01/01/87
74-88-4	Methyl iodide	C02	01/01/87
74-90-8	Hydrogen cyanide	C16	01/01/87
74-95-3	Methylene bromide	C02	01/01/87
75-00-3	Chloroethane (Ethyl chloride)	C02	01/01/87
75-01-4	Vinyl chloride	C03	01/01/87
75-05-8	Acetonitrile	C11	01/01/87
75-07-0	Acetaldehyde	C07	01/01/87
75-09-2	Dichloromethane (Methylene chloride)	C02	01/01/87
75-15-0	Carbon disulfide	C13	01/01/87
75-21-8	Ethylene oxide	C06	01/01/87
75-25-2	Bromoform (Tribromomethane)	C02	01/01/87
75-27-4	Dichlorobromomethane	C02	01/01/87
75-35-4	Vinylidene chloride	C03	01/01/87
75-44-5	Phosgene	C09	01/01/87
75-55-8	Propyleneimine	C11	01/01/87
75-56-9	Propylene oxide	C06	01/01/87
75-65-0	*tert*-Butyl alcohol	C05	01/01/87
76-13-1	Chlorinated fluorocarbon (Freon 113) [Ethane, 1,1,2-trichloro-1,2,2-trifluoro-]	C02	01/01/87
76-44-8	Heptachlor [1,4,5,6,7,8,8-Heptachloro-3a,4,7,7a-tetrahydro-4,7-methano-1H-indene]	C03	01/01/87
77-47-4	Hexachlorocyclopentadiene	C03	01/01/87
77-78-1	Dimethyl sulfate	C13	01/01/87
78-84-2	Isobutyraldehyde	C07	01/01/87
78-87-5	1,2-Dichloropropane	C02	01/01/87
78-92-2	*sec*-Butyl alcohol	C05	01/01/87
78-93-3	Methyl ethyl ketone	C07	01/01/87
79-00-5	1,1,2-Trichloroethane	C02	01/01/87
79-01-6	Trichloroethylene	C03	01/01/87
79-06-1	Acrylamide	C09	01/01/87
79-10-7	Acrylic acid	C08	01/01/87
79-11-8	Chloroacetic acid	C08	01/01/87
79-21-0	Peracetic acid	C09	01/01/87
79-34-5	1,1,2,2-Tetrachloroethane	C02	01/01/87
79-44-7	Dimethylcarbamyl chloride	C09	01/01/87
79-46-9	2-Nitropropane	C12	01/01/87
80-05-7	4,4'-Isopropylidenediphenol	C05	01/01/87
80-15-9	Cumene hydroperoxide	C05	01/01/87
80-62-6	Methyl methacrylate	C08	01/01/87
81-07-2	Saccharin (manufacturing) [1,2-Benzisothiazol-3(2H)- one, 1,1-dioxide]	C09	01/01/87
81-88-9	C.I. Food Red 15	C10	01/01/87
82-28-0	1-Amino-2-methylanthraquinone	C10	01/01/87
82-68-8	Quintozene [Pentachloronitrobenzene]	C12	01/01/87
84-66-2	Diethyl phthalate	C08	01/01/87
84-74-2	Dibutyl phthalate	C08	01/01/87
85-44-9	Phthalic anhydride	C08	01/01/87
85-68-7	Butyl benzyl phthalate	C08	01/01/87
86-30-6	*N*-Nitrosodiphenylamine	C12	01/01/87
87-62-7	2,6-Xylidine	C10	01/01/87
87-68-3	Hexachloro-1,3-butadiene	C03	01/01/87
87-86-5	Pentachlorophenol (PCP)	C04	01/01/87
88-06-2	2,4,6-Trichlorophenol	C04	01/01/87
88-75-5	2-Nitrophenol	C12	01/01/87
88-89-1	Picric acid	C08	01/01/87
90-04-0	*o*-Anisidine	C10	01/01/87
90-43-7	2-Phenylphenol	C05	01/01/87
90-94-8	Michler's ketone	C07	01/01/87
91-08-7	Toluene-2,6-diisocyanate	C11	01/01/87
91-20-3	Naphthalene	C01	01/01/87
91-22-5	Quinoline	C11	01/01/87
91-59-8	*beta*-Naphthylamine	C10	01/01/87
91-94-1	3,3'-Dichlorobenzidine	C10	01/01/87
92-52-4	Biphenyl	C01	01/01/87
92-67-1	4-Aminobiphenyl	C10	01/01/87
92-87-5	Benzidine	C10	01/01/87
92-93-3	4-Nitrobiphenyl	C12	01/01/87
94-36-0	Benzoyl peroxide	C09	01/01/87
94-59-7	Safrole	C06	01/01/S7

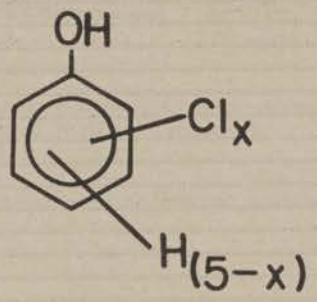
CAS No.	Chemical name	Generic classification code	Effective date
94-75-7	2,4-D [Acetic acid, (2,4-dichlorophenoxy)-]	C08	01/01/87
95-47-6	*o*-Xylene	C01	01/01/87
95-48-7	*o*-Cresol	C05	01/01/87
95-50-1	1,2-Dichlorobenzene	C04	01/01/87
95-53-4	*o*-Toluidine	C10	01/01/87
95-63-6	1,2,4-Trimethylbenzene	C01	01/01/87
95-80-7	2,4-Diaminotoluene	C10	01/01/87
95-95-4	2,4,5-Trichlorophenol	C04	01/01/87
96-09-3	Styrene oxide	C06	01/01/87
96-12-8	1,2-Dibromo-3-chloropropane (DBCP)	C02	01/01/87
96-33-3	Methyl acrylate	C08	01/01/87
96-45-7	Ethylene thiourea	C13	01/01/87
97-56-3	C.I. Solvent Yellow 3	C14	01/01/87
98-07-7	Benzoic trichloride (Benzotrichloride)	C02	01/01/87
98-82-8	Cumene	C01	01/01/87
98-87-3	Benzal chloride	C02	01/01/87
98-88-4	Benzoyl chloride	C09	01/01/87
98-95-3	Nitrobenzene	C12	01/01/87
99-59-2	5-Nitro-*o*-anisidine	C12	01/01/87
100-02-7	4-Nitrophenol	C12	01/01/87
100-21-0	Terephthalic acid	C08	01/01/87
100-41-4	Ethylbenzene	C01	01/01/87
100-42-5	Styrene	C01	01/01/87
100-44-7	Benzyl chloride	C02	01/01/87
100-75-4	*N*-Nitrosopiperidine	C12	01/01/87
101-14-4	4,4'-Methylenebis(2-chloroaniline) (MBOCA)	C10	01/01/87
101-61-1	4,4'-Methylenebis(*N,N*-dimethyl)benzenamine	C10	01/01/87
101-68-8	Methylenebis(phenyliso cyanate) (MBI)	C11	01/01/87
101-77-9	4,4'-Methylenedianiline	C10	01/01/87
101-80-4	4,4'-Diaminodiphenyl ether	C10	01/01/87
103-23-1	Bis(2-ethylhexyl) adipate	C08	01/01/87
104-94-9	*p*-Anisidine	C10	01/01/87
105-67-9	2,4-Dimethylphenol	C05	01/01/87
106-42-3	*p*-Xylene	C01	01/01/87
106-44-5	*p*-Cresol	C05	01/01/87
106-46-7	1,4-Dichlorobenzene	C04	01/01/87
106-50-3	*p*-Phenylenediamine	C10	01/01/87
106-51-4	Quinone	C07	01/01/87
106-88-7	1,2-Butylene oxide	C06	01/01/87
106-89-8	Epichlorohydrin	C06	01/01/87
106-93-4	1,2-Dibromoethane (Ethylene dibromide)	C02	01/01/87
106-99-0	1,3-Butadiene	C01	01/01/87
107-02-8	Acrolein	C07	01/01/87
107-05-1	Allyl chloride	C03	01/01/87
107-06-2	1,2-Dichloroethane (Ethylene dichloride)	C02	01/01/87
107-13-1	Acrylonitrile	C11	01/01/87
107-21-1	Ethylene glycol	C05	01/01/87
107-30-2	Chloromethyl methyl ether	C06	01/01/87
108-05-4	Vinyl acetate	C08	01/01/87
108-10-1	Methyl isobutyl ketone	C07	01/01/87
108-31-6	Maleic anhydride	C08	01/01/87
108-38-3	*m*-Xylene	C01	01/01/87
108-39-4	*m*-Cresol	C05	01/01/87
108-60-1	Bis(2-chloro-1-methylethyl) ether	C06	01/01/87
108-78-1	Melamine	C10	01/01/87
108-88-3	Toluene	C01	01/01/87
108-90-7	Chlorobenzene	C04	01/01/87
108-95-2	Phenol	C05	01/01/87
109-86-4	2-Methoxyethanol	C06	01/01/87
110-80-5	2-Ethoxyethanol	C06	01/01/87
110-82-7	Cyclohexane	C01	01/01/87
110-86-1	Pyridine	C11	01/01/87
111-42-2	Diethanolamine	C10	01/01/87
111-44-4	Bis(2-chloroethyl) ether	C06	01/01/87
114-26-1	Propoxur [Phenol, 2-(1-methylethoxy)-,methylcarbamate]	C09	01/01/87
115-07-1	Propylene (Propene)	C01	01/01/87
115-32-2	Dicofol [Benzenemethanol, 4-chloro-.alpha.-(4-chlorophenyl)-.alpha.-(trichloromethyl)-]	C04	01/01/87
117-79-3	2-Aminoanthraquinone	C10	01/01/87
117-81-7	Di(2-ethylhexyl) phthalate (DEHP)	CO8	01/01/87
117-84-0	*n*-Dioctyl phthalate	CO8	01/01/87
118-74-1	Hexachlorobenzene	C04	01/01/87

CAS No.	Chemical name	Generic classification code	Effective date
119-90-4	3,3'-Dimethoxybenzidine	C10	01/01/87
119-93-7	3,3'-Dimethylbenzidine (o-Tolidine)	C10	01/01/87
120-12-7	Anthracene	C01	01/01/87
120-71-8	*p*-Cresidine	C06	01/01/87
120-80-9	Catechol	C05	01/01/87
120-82-1	1,2,4-Trichlorobenzene	C04	01/01/87
120-83-2	2,4-Dichlorophenol	C04	01/01/87
121-14-2	2,4-Dinitrotoluene	C12	01/01/87
121-69-7	*N,N*-Dimethylaniline	C10	01/01/87
122-66-7	1,2-Diphenylhydrazine (Hydrazobenzene)	C11	01/01/87
123-31-9	Hydroquinone	C07	01/01/87
123-38-6	Propionaldehyde	C07	01/01/87
123-72-8	Butyraldehyde	C07	01/01/87
123-91-1	1,4-Dioxane	C06	01/01/87
126-72-7	Tris-2,3-dibromopropyl) phosphate	C13	01/01/87
126 99-8	Chloroprene	C03	01/01/87
127-18-4	Tetrachloroethylene (Perchloroethylene)	C03	01/01/87
128-66-5	C.I. Vat Yellow 4	C07	01/01/87
131-11-3	Dimethyl phthalate	C08	01/01/87
132-64-9	Dibenzofuran	C06	01/()1/87
133-06-2	Captan [1H-Isoindole-1,3(2H)-dione,3a,4,7,7a-tetrahydro-2- [(trichloromethyl)thio]-]	C13	01/01/87
133-90-4	Chloramben [Benzoic acid, 3-amino-2,5-dichloro-]	C11	01/01/87
134-29-2	*o*-Anisidine hydrochloride	C10	01/01/87
134-32-7	*alpha*-Naphthylamine	C10	01/01/87
135-20-6	Cupferron [Benzeneamine, N-hydroxy-N-nitroso, ammonium salt]	C12	01/01/87
139-13-9	Nitrilotriacetic acid	C08	01/01/87
139-65-1	4,4'-Thiodianiline	C13	01/01/87
140-88-5	Ethyl acrylate	C08	01/01/87
141-32-2	Butyl acrylate	C08	01/01/87
151-56-4	Ethyleneimine (Aziridine)	C11	01/01/87
156-10-5	*p*-Nitrosodiphenylamine	C12	01/01/87
156-62-7	Calcium cyanamide	C11	01/01/87
302-01-2	Hydrazine	C11	01/01/87
309-00-2	Aldrin[1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-(1.alpha.,4.alpha.,4a.beta.,5.alpha. 8.alpha.,8a .beta.)-]:.	C03	01/01/87
334-88-3	Diazomethane	C11	01/01/87
463-58-1	Carbonyl sulfide	C13	01/01/87
492-80-8	Auramine [Benzeneamine, 4 4'-carbonimidoylbis[tN,N- dimethyl-]	C10	01/01/87
505-60-2	Mustard gas [Ethane, 1, 1'-thiobis [2-chloro-]	C13	01/01/87
510-15-6	Chlorobenzilate [Benezeneacetic acid, 4-chloro-.alpha.-(4-chlorophenyl)-.alpha.hydroxy-, ethyl ester].	C08	01/01/87
532-27-4	2-Chloroacetophenone	C07	01/01/87
534-52-1	4,6-Dinitro-*o*-cresol	C12	01/01/87
540-59-0	1,2-Dichloroethylene	C03	01/01/87
541-41-3	Ethyl chloroformate	C09	01/01/87
541-73-1	1,3-Dichlorobenzene	C04	01/01/87
542-75-6	1,3-Dichloropropylene	C03	01/01/87
542-88-1	Bis(chloromethyl) ether	C06	01/01/87
569-64-2	C.I. Basic Green 4	C10	01/01/87
584-84-9	Toluene-2,4-diisocyanate	C11	01/01/87
593-60-2	Vinyl bromide	C03	01/01/87
606-20-2	2,6-Dinitrotoluene	C12	01/01/87
615-05-4	2,4-Diaminoanisole	C10	01/01/87
621-64-7	*N*-Nitrosodi-*n*-propylamine	C12	01/01/87
624-83-9	Methyl isocyanate	C11	01/01/87
636-21-5	*o*-Toluidine hydrochloride	C10	01/01/87
680-31-9	Hexamethylphosphoramide	C13	01/01/87
684-93-5	*N*-Nitroso-*N*-methylurea	C12	01/01/87
759-73-9	*N*-Nitroso-*N*-methylurea	C12	01/01/87
842-07-9	C.I. Solvent Yellow 14	C14	01/01/87
924-16-3	*N*-Nitrosodi-*n*-butylamine	C12	01/01/87
961-11-5	Tetrachlorvinphos [Phosphoric acid, 2-chloro-1-(2,4,5-trichlorophenl) ethenyl dimethyl ester]	C13	01/01/87
989-38-8	C.I. Basic Red 1	C10	01/01/87
1120-71-4	Propane sultone	C13	01/01/87
1163-19-5	Decabromodiphenyl oxide	C04	01/01/87
1310-73-2	Sodium hydroxide (solution)	C16	01/01/87
1313-27-5	Molybdenum trioxide	C15	01/01/87
1314-20-1	Thorium dioxide	C15	01/01/87
1319-77-3	Cresol (mixed isomers)	C05	01/01/87
1330-20-7	Xylene (mixed isomers)	C01	01/01/87
1332-21-4	Asbestos (friable)	C16	01/01/87

CAS No.	Chemical name	Generic classification code	Effective date
1335-87-1	Hexachloronaphthalene	C04	01/01/87
1336-36-3	Polychlorinated biphenyls (PCBs)	C04	01/01/87
1344-28-1	Aluminum oxide	C15	01/01/87
1464-53-5	Diepoxybutane	C06	01/01/87
1582-09-8	Trifluralin [Benzeneamine, 2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)-]	C12	01/01/87
1634-04-4	Methyl *tert*-butyl ether	C06	01/01/87
1836-75-5	Nitrofen [Benzene, 2,4-dichloro-1-(4-nitrophenoxy)-]	C15	01/01/87
1897-45-6	Chlorothalonil [1-3-Benzenedicarbonitrile, 2,4,5,6-tetrachloro-]	C09	01/01/87
1937-37-7	Direct Black 38	C14	01/01/87
2164-17-2	Fluometuron [Urea, N,N-dimethyl-N'- [3-(trifluoromethyl)phenyl]-]	C09	01/01/87
2234-13-1	Octachloronaphthalene	C04	01/01/87
2303-16-4	Diallate [Carbamothioic acid, bis(1-methylethyl)-, S-(2,3- dichloro-2-propenyl) ester]	C13	01/01/87
2602-46-2	Direct Blue 6	C14	01/01/87
2650-18-2	C.I. Acid Blue 9, diammonium salt	C13	01/01/87
2832-40-8	C.I. Disperse Yellow 3	C14	01/01/87
3118-97-6	C.I. Solvent Orange 7	C14	01/01/87
3761-53-3	C.I. Food Red 5	C14	01/01/87
3844-45-9	C.I. Acid Blue 9, disodium salt	C13	01/01/87
4549-40-0	*N*-Nitrosomethylvinylamine	C12	01/01/87
4680-78-8	C.I. Acid Green 3	C13	01/01/87
6484 52-2	Ammonium nitrate (solution)	C16	01/01/87
7429-90-5	Aluminum (fume or dust)	C15	01/01/87
7439-92-1	Lead	C15	01/01/87
7439-96-5	Manganese	C15	01/01/87
7439-97-6	Mercury	C15	01/01/87
7440-02-0	Nickel	C15	01/01/87
7440-22-4	Silver	C15	01/01/87
7440-28-0	Thallium	C15	01/01/87
7440-36-0	Antimony	C15	01/01/87
7440-38-2	Arsenic	C15	01/01/87
7440-39-3	Barium	C15	01/01/87
7440-41-7	Beryllium	C15	01/01/87
7440-43-9	Cadmium	C15	01/01/87
7440-47-3	Chromium	C15	01/01/87
7440-48-4	Cobalt	C15	01/01/87
7440-50-8	Copper	C15	01/01/87
7440-62-2	Vanadium (fume or dust)	C15	01/01/87
7440-66-6	Zinc (fume or dust)	C15	01/01/87
7550-45-0	Titanium tetrachloride	C15	01/01/87
7647-01-0	Hydrochloric acid	C16	01/01/87
7664-38-2	Phosphoric acid	C16	01/01/87
7664-39-3	Hydrogen fluoride	C16	01/01/87
7664-41-7	Ammonia	C16	01/01/87
7664-93-9	Sulfuric acid	C16	01/01/87
7697-37-2	Nitric acid	C16	01/01/87
7723-14-0	Phosphorus (yellow or white)	C16	01/01/87
7757-82-6	Sodium sulfate (solution)	C16	01/01/87
7782-49-2	Selenium	C16	01/01/87
7782-50-5	Chlorine	C16	01/01/87
7783-20-2	Ammonium sulfate (solution)	C16	01/01/87
8001-35-2	Toxaphene	C02	01/01/87
10034-93-2	Hydrazine sulfate	C11	01/01/87
10049-04-4	Chlorine dioxide	C16	01/01/87
12122-67-7	Zineb [Carbamodithioic acid, 1,2-ethanediylbis-, zinc complex]	C15	01/01/87
12427-38-2	Maneb [Carbamodithioic acid, 1,2-ethanediylbis-, manganese complex]	C16	01/01/87
13463-67-7	Titanium dioxide	C15	01/01/87
16071-86-6	Direct Brown 95	C14	01/01/87
16543-55-8	*N*-Nitrosonornicotine	C12	01/01/87
20816-12-0	Osmium tetroxide	C15	01/01/87
25321-22-6	Dichlorobenzene (mixed isomers)	C04	01/01/87
25376-45-8	Diaminotoluene (mixed isomers)	C10	01/01/87
39156-41-7	2,4-Diaminoanisole sulfate	C10	01/01/87

(c) *Chemical categories in alphabetical order.*

Category name	Generic classification code	Effective date
Antimony compounds—includes any unique chemical substance that contains antimony as part of that chemical's infrastructure	C15	01/01/87
Arsenic compounds—includes any unique chemical substance that contains arsenic as part of that chemical's infrastructure	C15	01/01/87
Barium compounds—includes any unique chemical substance that contains barium as part of that chemical's infrastructure	C15	01/01/87
Beryllium compounds—includes any unique chemical substance that contains beryllium as part of that chemical's infrastructure	C15	01/01/87
Cadmium compounds—includes any unique chemical substance that contains cadmium as part of that chemical's infrastructure	C15	01/01/87
Chlorophenols	C04	01/01/87



Where x = 1 to 5

Chromium compounds—includes any unique chemical substance that contains chromium as part of that chemical's infrastructure	C15	01/01/87
Cobalt compounds—includes any unique chemical substance that contains cobalt as part of that chemical's infrastructure	C15	01/01/87
Copper compounds—includes any unique chemical substance that contains copper as part of that chemical's infrastructure	C15	01/01/87
Cyanide compounds—X^+ CN^- where $X = H^+$ or any other group where a formal dissociation can be made. For example KCN, or $Ca(CN)_2$	C16	01/01/87
Glycol ethers—includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol	C06	01/01/87

$R-(OCH2CH2)n^{-OR'}$

Where

n = 1, 2, or 3

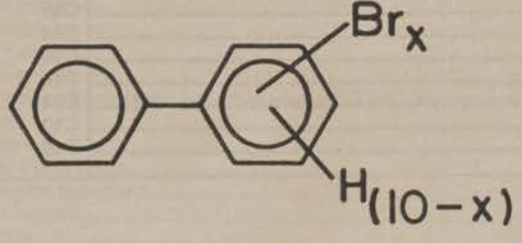
R = alkyl or aryl groups.

R' = R, H, or groups which, when removed, yield glycol ethers with the structure:

$R-(OCH2CH)_{n-OH}$

Polymers are excluded from this category

Lead compounds—includes any unique chemical substance that contains lead as part of that chemical's infrastructure	C15	01/01/87
Manganese compounds—includes any unique chemical substance that contains manganese as part of that chemical's infrastructure	C15	01/01/87
Mercury compounds—includes any unique chemical substance that contains mercury as part of that chemical's infrastructure	C15	01/01/87
Nickel compounds—includes any unique chemical substance that contains nickel as part of that chemical's infrastructure	C15	01/01/87
Polybrominated biphenyls (PBBs)	C04	01/01/87



Where x = 1 to 10

Selenium compounds—includes any unique chemical substance that contains selenium as part of that chemical's infrastructure	C15	01/01/87
Silver compounds—includes any unique chemical substance that contains silver as part of that chemical's infrastructure	C15	01/01/87
Thallium compounds—includes any unique chemical substance that contains thallium as part of that chemical's infrastructure	C15	01/01/87

Category name	Generic classification code	Effective date
Zinc compounds—includes any unique chemical substance that contains zinc as part of that chemical's infrastructure	C15	01/01/87

Subpart D—Reporting Forms and Instructions

§ 372.65 Toxic chemical release reporting form and instructions.

(a) *EPA Form R, the Toxic Chemical Release Inventory Form:*

BILLING CODE 6560-50-M

Page 1 of 5 pages

Form Approved OMB No.:

Important: Read instructions before completing form

Approval Expires:

U.S. Environmental Protection Agency

TOXIC CHEMICAL RELEASE INVENTORY

Section 313, Title III of The Superfund Amendments and Reauthorization Act of 1986

R EPA Form R

Report Number

Calendar Year

I. CERTIFICATION *(Read and sign after completing all sections)*

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.

Name and official title of owner/operator or senior management official

Signature

Date Signed

II. FACILITY IDENTIFICATION

A. Name and Location

Name

Street Address

City County

State Zip

B. Technical Contact

Name

Street Address

Telephone

C. Facility Identifiers

Facility Dun & Bradstreet Number - -

EPA Identification Number

NPDES Permit Number

Name of Receiving Stream or Body of Water

UIC Identification Number

Facility Primary SIC Code

Other Manufacturing SIC Code

Other Manufacturing SIC Code

Dun & Bradstreet Number of Parent Company - -

D. Parent Company Name

III. OFF-SITE LOCATIONS TO WHICH ANY TOXIC CHEMICAL IS TRANSFERRED

A. Publicly Owned Treatment Works (POTW)

Name

Address

B. 1. Other off-site location

Type of treatment/disposal (enter code)

Name

Address

Is location under control of reporting facility or parent company? yes no

2. Other off-site location

Type of treatment/disposal (enter code)

Name

Address

Is location under control of reporting facility or parent company? yes no

3. Other off-site location

Type of treatment/disposal (enter code)

Name

Address

Is location under control of reporting facility or parent company? yes no

☐ Check if supplemental sheet is attached

Page 2 of 5 pages Form R (continued)

IV. CHEMICAL IDENTITY

A. CAS # ☐☐☐☐☐-☐☐-☐

B. Trade Secret ☐

(Provide the generic classification code and name in Section C below. Attach the required explanation to this submission.)

Chemical or Chemical Category Name

_____

C. Generic classification of the chemical or chemical category

(Complete if the chemical or chemical category identity is claimed a trade secret or you are reporting a mixture or tradename product under D, below, and the supplier has provided you with the generic classification.)

Code ☐☐☐ Generic Classification _____

D. Mixture or tradename product identification

(Complete this section only if you are reporting a mixture or tradename product and you do not know the specific toxic chemical component.)

_____
Name of product

Do you know the percentage composition of the toxic chemical in the product?

☐ yes – complete the remainder of this form

☐ no – complete only through section V of this form

V. ACTIVITIES AND USES OF THE TOXIC CHEMICAL AT THE FACILITY

(Check all that apply)

A. MANUFACTURE

- Produce ☐
- Import ☐
- For on-site use/processing ☐
- For sale/distribution ☐
- As a byproduct ☐
- As an impurity ☐

B. PROCESS

- As a reactant ☐
- As a formulation component ☐
- As an article component ☐
- Repackaging only ☐

C. OTHERWISE USED

- As a chemical processing aid ☐
- As a manufacturing aid ☐
- Ancillary or other use ☐

VI. MAXIMUM AMOUNT OF THE CHEMICAL ON-SITE AT ANY TIME DURING THE REPORTING PERIOD

Check the Reporting Range That Applies	Weight Range in Pounds From...	To...
☐	0	99
☐	100	999
☐	1000	9,999
☐	10,000	99,999
☐	100,000	999,999
☐	1,000,000	9,999,999
☐	10,000,000	49,999,999
☐	50,000,000	99,999,999
☐	100,000,000	499,999,999
☐	500,000,000	999,999,999
☐	1 billion	more than 1 billion

Page 3 of 5 pages Form R (continued)

VII. RELEASES TO THE ENVIRONMENT

	Total Release (lbs/yr)	Basis of Estimate (Enter Code)	Title III Sec. 304 Release? Yes No	Permit Applies to Release? Yes No
A. Emission to the Air				
Fugitive or non-point air emissions		☐	☐ ☐	☐ ☐
Stack or point air emissions		☐	☐ ☐	☐ ☐
B. Discharges to Water				
Direct discharges		☐	☐ ☐	☐ ☐
C. Releases to Land			Yes No	Yes No
1. Enter code ☐☐		☐	☐ ☐	☐ ☐
2. Enter code ☐☐		☐	☐ ☐	☐ ☐
3. Enter code ☐☐		☐	☐ ☐	☐ ☐
4. Enter code ☐☐		☐	☐ ☐	☐ ☐
D. Transfers to Off-Site Locations				Yes No
1. Discharge to POTW		☐		☐ ☐
2. Other off-site location – Enter block number from section III.B. ☐		☐		☐ ☐
3. Other off-site location – Enter block number from section III.B. ☐		☐		☐ ☐
4. Other off-site location – Enter block number from section III.B. ☐		☐		☐ ☐

Check if supplemental sheet is attached. ☐

Page 4 of 5 pages Form R (continued)

VIII. WASTE TREATMENT METHODS AND EFFICIENCY

General Wastestream

Check the box corresponding to the general wastestream.

G = Gaseous
W = Wastewater
L = Liquid Waste (Non-Aqueous)
S = Solid Waste (including slurry/sludge)

	G	W	L	S	Treatment Method (Enter Code)	Range of Influent Concentration (Enter Code)	Treatment Efficiency Estimate	Based on Operating Data? yes	no
1.	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐
2.	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐
3.	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐
4.	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐
5.	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐
6.	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐
7.	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐
8.	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐
9.	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐
10.	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐
11.	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐
12	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐
13.	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐
14.	☐	☐	☐	☐	☐☐☐☐	☐	___ %	☐	☐

☐ Check if supplemental sheet is attached

IX. OPTIONAL INFORMATION ON WASTE MINIMIZATION

Describe actions taken since the last report to reduce the amount of toxic chemicals being released from the facility. See the instructions for coded items and explanation of what information to include, or provide a narrative explanation in the space provided.

Type of modification (Enter Code)	Quantity of chemical in the wastestream prior to treatment/disposal			Index	Reason for Action (Enter Code)
	Current reporting year (lb/yr)	Prior year (lb/yr)	OR Percent change		
☐☐	_____	_____	_____ %	☐☐	☐☐

Narrative Description

_____

_____

_____

_____

_____

_____

☐ Check if supplemental sheet is attached.

(b) Instructions:

INSTRUCTIONS FOR COMPLETING EPA FORM R -- THE TOXIC CHEMICAL RELEASE INVENTORY REPORTING FORM

UNIT A -- INTRODUCTION

These instructions and the regulation (40 CFR part 372) should be read carefully before completing EPA Form R, the Toxic Chemical Release Inventory form. For additional assistance in performing calculations required to complete this form, please consult EPA's guidance manual for toxic chemical release reporting titled "Guidance for Estimating Releases and Waste Treatment Efficiency for The Toxic Chemical Inventory Form." This document is available by contacting EPA at the address given in Unit B.10. of these instructions.

The completion of the Toxic Chemical Release Inventory form is required under section 313 in Title III of the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499. Title III is itself called the "Emergency Planning and Community Right-to-Know Act of 1986." Section 313 requires owners and operators of certain facilities that manufacture, process, or otherwise use certain toxic chemicals to report their total annual releases or emissions of these chemicals from the facility to the environment. Such report is to be sent to both EPA and to the state in which the facility is located.

The purpose of this reporting requirement is to make available to the public information about releases of toxic chemicals resulting from activities of manufacturing facilities in a community. The information is also intended to assist governmental agencies and researchers in gathering data and conducting research, as well as to aid the development of regulations, guidelines, and standards.

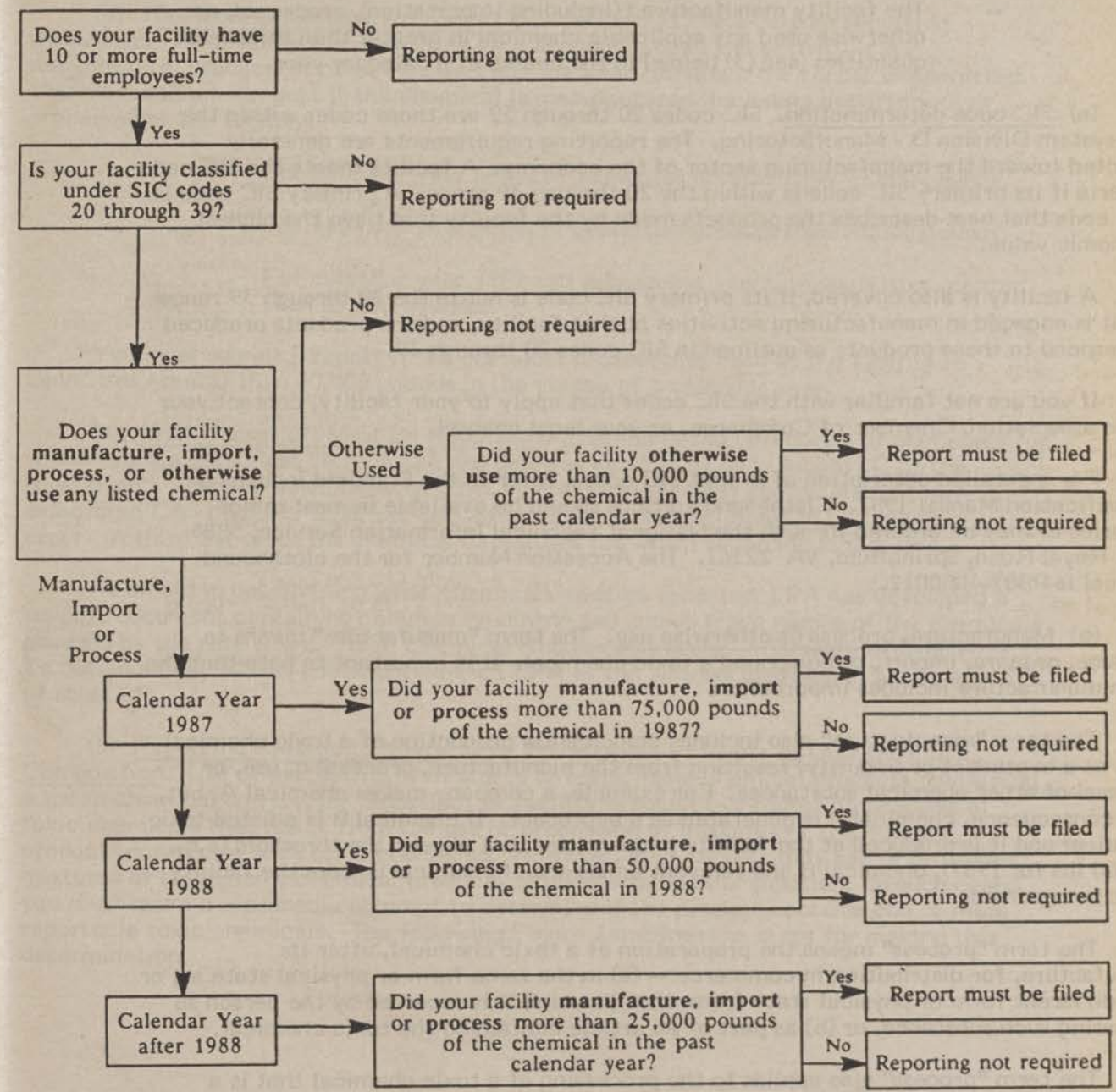
The data in these reports will be maintained in a computerized data base as required by section 313(j) in Title III. This data base will be made available to the public, using computer telecommunications or similar means of access. Certain information claimed as a trade secret, however, is protected under specific provisions in the statute that are explained in these instructions.

UNIT B -- APPLICABILITY AND GENERAL REQUIREMENTS

(1) Determination of Applicability. The decision flowchart in the following Figure 1 can be used to help determine whether your facility is required to submit Toxic Chemical Release Inventory reports.

Figure 1

Flowsheet for Determination of Applicability



(2) Who Must Report. Reports must be filed by owners and operators of facilities that meet all three of the following criteria:

-- The facility has 10 or more full-time employees;
-- The facility is included in Standard Industrial Classification (SIC) Codes 20 through 39; and
-- The facility manufactured (including importation), processed, or otherwise used any applicable chemical in greater than threshold quantities (see (3) below) in the course of a calendar year.

(a) SIC code determination. SIC codes 20 through 39 are those codes within the SIC system Division D - Manufacturing. The reporting requirements are generally directed toward the manufacturing sector of the economy. A facility meets the SIC code criteria if its primary SIC code is within the 20 through 39 range. A primary SIC code is that code that best describes the products made by the facility that have the highest economic value.

A facility is also covered, if its primary SIC code is not in the 20 through 39 range but it is engaged in manufacturing activities at that facility, and the products produced correspond to those products as outlined in SIC codes 20 through 39.

If you are not familiar with the SIC codes that apply to your facility, contact your trade association, Chamber of Commerce, or your legal counsel.

For a detailed description of 4-digit SIC codes, refer to the Standard Industrial Classification Manual 1987. Clothbound editions should be available in most major libraries or may be ordered through the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. The Accession Number for the clothbound Manual is PB87-1000012.

(b) Manufacture, process or otherwise use. The term "manufacture" means to produce, prepare, import, or compound a toxic chemical. It is important to note that the term manufacture includes importation.

The term "manufacture" also includes coincidental production of a toxic chemical (e.g. as a byproduct or impurity) resulting from the manufacture, processing, use, or disposal of other chemical substances. For example, a company makes chemical A, but, as a consequence, chemical B is generated as a byproduct. If chemical B is a listed toxic chemical and it is produced at the facility in quantities that exceed the threshold (e.g., 75,000 lbs for 1987), chemical B and relevant emissions of chemical B from the facility must be reported.

The term "process" means the preparation of a toxic chemical, after its manufacture, for distribution in commerce -- (a) in the same form or physical state as, or in a different form or physical state from, that in which it is received by the person so preparing such substance, or (b) as part of an article containing the toxic chemical.

The term "process" also applies to the processing of a toxic chemical that is a component of a mixture or other trade name product.

The term "otherwise used" encompasses any use of a listed chemical at a facility that is not specified by the defined actions of manufacture or process. For example, a facility that incorporates toluene into a mixture for distribution in commerce is processing that chemical. A facility that cleans equipment with toluene is not processing toluene but, nonetheless, is using toluene.

(3) Threshold Quantities for Reporting. Section 313 sets certain reporting thresholds. These threshold quantities vary depending upon the activity (e.g., manufacture, process, or otherwise use) and the year for which the report is submitted. You must submit a report if the chemical is manufactured (including importation) or processed at the facility:

For calendar year 1987, in quantities greater than 75,000 pounds.

For calendar year 1988, in quantities greater than 50,000 pounds.

For calendar year 1989 and subsequent years, in quantities greater than 25,000 pounds.

You must submit a report if the chemical is otherwise used at the facility in quantities greater than 10,000 pounds in the course of a calendar year.

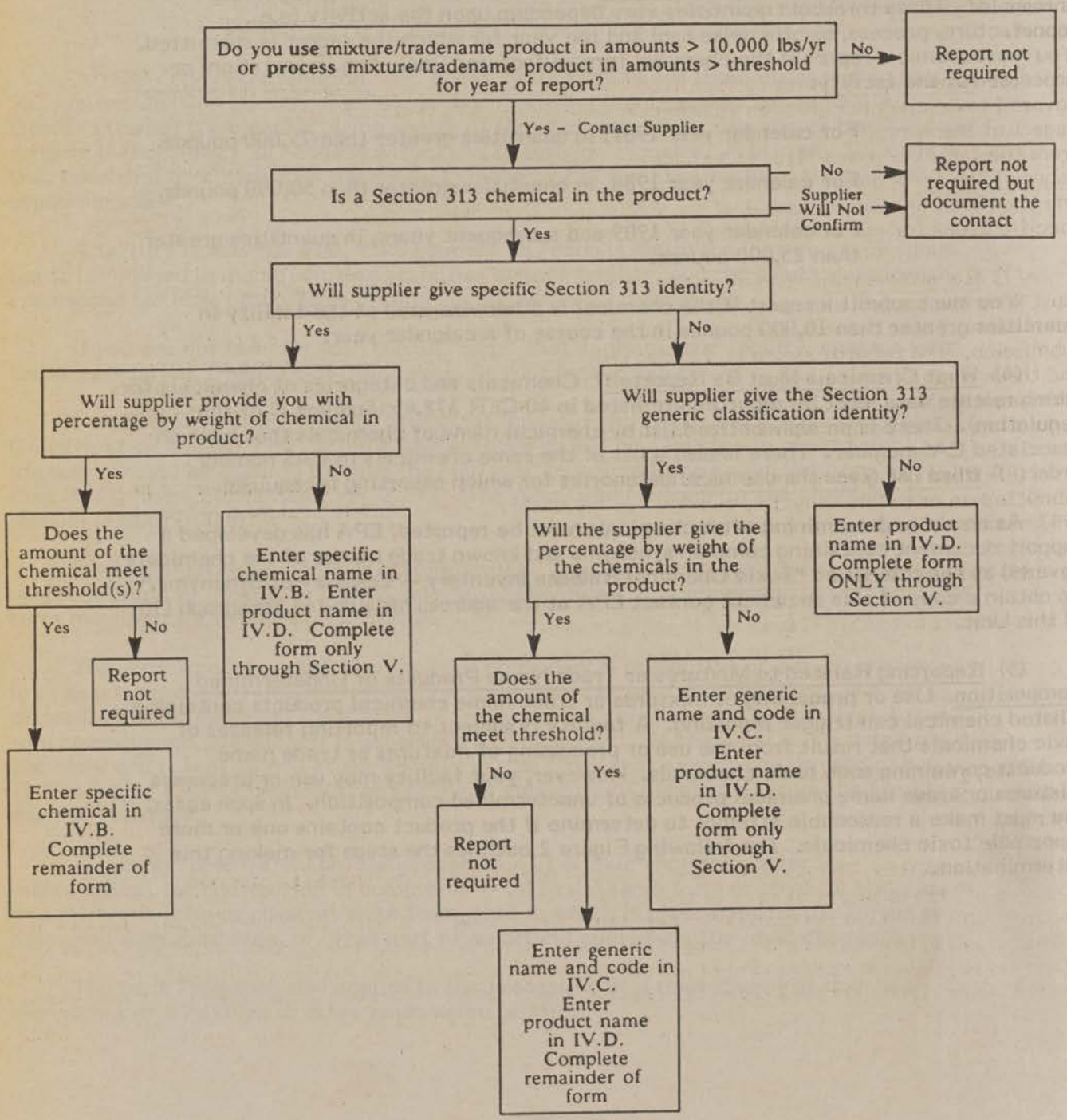
(4) What Chemicals Must Be Reported? Chemicals and categories of chemicals for which release data must be reported are listed in 40 CFR 372.45 (Subpart C of the regulation). There is an alphabetized list by chemical name of chemicals that have an associated CAS number. There is also a list of the same chemicals in CAS number order. A third list gives the chemical categories for which reporting is required.

As an aid in determining what chemicals must be reported, EPA has developed a support document containing common synonyms and known trade names of the chemicals covered by the rule titled "Toxic Chemical Release Inventory -- Glossary of Synonyms." To obtain a copy of this document contact EPA at the address provided in paragraph (10) of this Unit.

(5) Reporting Related to Mixtures or Trade Name Products of Undetermined Composition. Use or processing of mixtures or trade name chemical products containing a listed chemical can trigger reporting. A facility is subject to reporting releases of toxic chemicals that result from the use or processing of mixtures or trade name products containing such toxic chemicals. However, your facility may use or processes mixtures or trade name chemical products of undetermined composition. In such cases, you must make a reasonable attempt to determine if the product contains one or more reportable toxic chemicals. The following Figure 2 outlines the steps for making this determination.

Figure 2

Reporting Mixture and Tradename Product Information



To begin with, identify those chemical products otherwise used in excess of 10,000 pounds per year, or processed (e.g., used as a reactant, mixture component, or article component) in excess of the applicable threshold for the year of reporting (e.g., 75,000 pounds for 1987). Then, contact the supplier of the product and ask whether the product contains a reportable section 313 toxic chemical. If the response is "no" or if the supplier will not, for other, reasons, tell you then you have no further responsibility relative to that product. You must, however, keep a record of this contact. If the answer is "yes" then follow the steps outlined in Figure 2 to determine what you must report.

(6) How Many Reports to Submit. A separate report must be submitted for each covered toxic chemical at each facility. However, the information to be supplied on page 1 of the form (Sections I through III of the form) will be the same for all reports from the facility. Therefore, page 1 needs to be completed only once. The remaining pages of the form must be completed for each chemical. If you are reporting more than one chemical, photocopy page 1 of the Form and attach it to the remaining, chemical specific pages for each chemical being reported.

(7) Recordkeeping. You must keep a copy of each submission. In addition you must keep the supporting materials used to develop the information contained in the submission. These records must be kept for a period of 5 years from the date of the submission. The records are to be kept at the facility for which the report is submitted and these records must be readily available for inspection by EPA. If the facility closes permanently these records must be sent to the owner or operator or the facility. If there is no other owner or operator of the facility such records must be sent to EPA.

(8) When the Report Must Be Submitted. The report for any calendar year must be submitted on or before July 1 of the following year (e.g., the report for calendar year 1987 must be submitted on or before July 1, 1988).

(9) Where To Send The Report. Submit reports to:

OTS Document Control Officer,
U.S. Environmental Protection Agency,
401 M Street, SW.,
Washington, D.C. 20460.
Attn: Toxic Chemical Release Inventory

Also, you must forward a copy of the submission to the State in which the facility is located. States will provide addresses to which the copies of the reports are to be sent.

NOTE: The copy of the submission sent to the State should be the non-trade secret version of the form.

(10) How to Obtain Forms and Other Information. Additional copies of this form and guidance documents may be obtained from:

TSCA Assistance Office,
Office of Toxic Substances,
Environmental Protection Agency,
Room E-543,
401 M Street, SW.,
Washington, D.C. 20460,
(202) 554-1404.
Attn: Toxic Chemical Release Inventory,

UNIT C -- SPECIFIC INSTRUCTIONS FOR COMPLETING EPA FORM R

Report Number. Leave this space blank.

Calendar Year. All reporting is by calendar year. Enter the year in which the reported releases occurred (not the year the report is submitted) in the appropriate space.

SECTION I -- CERTIFICATION STATEMENT:

A senior official with management responsibility for the person (or persons) completing the form must sign the certification statement. This person must certify the accuracy and completeness of the information reported on the form by signing and dating the certification statement. Print or type the name and title of the person who signs the statement in the space provided. This certification statement applies to all information in the submittal including claims of trade secrecy and the required explanation for such claims. (See Unit D of these instructions for specfic instructions on trade secrecy claims and the required explanation that must be included with the submission.)

SECTION II -- FACILITY IDENTIFICATION:

A. FACILITY NAME AND LOCATION

Enter the name of the facility (plant site name or appropriate facility designation), street address, city, county, state, and zip code in the space provided. Do not use a P.O. Box number as part of this location information.

B. TECHNICAL CONTACT

Enter the name, firm, title, street address, and telephone number (including area code) of an individual whom EPA, State officials, or the public may contact for clarification of the information on the form. This person does not have to be the person who prepares the report or signs the certification statement. However, this person must have a detailed knowledge of the report to be able to respond to questions.

C. FACILITY IDENTIFIERS

Dun and Bradstreet Number. Use the number obtained from Dun and Bradstreet for your facility. If your facility has not been assigned a Dun and Bradstreet Number, indicate this in the appropriate space by entering ¼NA .

EPA Identification Number. If your facility has been assigned an EPA Identification Number, enter the number in the appropriate space. The EPA I.D. number is a 12-digit number assigned to facilities covered by hazardous waste regulations of the Resource Conservation and Recovery Act (RCRA) and other regulations under Superfund (CERCLA). Facilities not covered by these regulations are not likely to have an assigned EPA I.D. number. If your facility does not have an EPA I.D. number, enter ¼NA in the appropriate space.

Standard Industrial Classification (SIC) Codes. Enter the appropriate 4-digit primary SIC codes for your facility. If applicable, enter any other 4-digit manufacturing SIC code(s) (i.e., codes in the 20 through 39 range). Enter up to 2 of these other SIC codes for activities associated with the toxic chemicals being reported. If no other SIC codes are applicable enter NA in these spaces.

NPDES Permit Number. Enter the permit number your facility holds under the National Pollutant Discharge Elimination System (NPDES). This permit number is assigned to your facility by EPA or the State under authority of the Clean Water Act. Enter the name of the surface water body or receiving stream to which the chemical is directly discharged. Report the name of the receiving stream or water body as it appears on the NPDES permit for the facility.

UIC Identification Number. If your facility injects chemical-containing waste into class 1 deep wells, enter the Underground Injection Control (UIC) identification number assigned by EPA or by the State under authority of the Safe Drinking Water Act. If your facility does not hold such a permit enter NA in this space.

D. PARENT COMPANY

If applicable, enter the name of the corporation or other business entity that owns or controls the facility. Also enter the Dun and Bradstreet Number for that parent company. If the facility is not owned or controlled by another corporation, enter NA in these spaces.

SECTION III -- OFF-SITE LOCATIONS TO WHICH ANY TOXIC CHEMICAL IS TRANSFERRED:

This section requires a listing of all off-site locations to which you transfer wastes containing the chemical(s) being reported. The information to be entered in this section relates to chemical-specific release information in section VII.D. of the form.

A. PUBLICLY OWNED TREATMENT WORKS (POTW)

Enter the name and address of the POTW to which your facility discharges wastewater containing the chemicals being reported. If you do not discharge wastewater containing the reported chemicals to a POTW, enter NA.

B. OTHER OFF-SITE LOCATIONS

In the spaces provided enter the name and address of each location to which you transfer wastes containing the chemical. For each location enter the code from Unit E at the end of these instructions that best describes the type of disposal or treatment applied to the waste at that location. Also indicate in the space provided whether the location is owned or controlled by your facility or your parent company. If more space is needed attach a continuation sheet.

SECTION IV -- CHEMICAL IDENTITY:

A. CAS REGISTRY NUMBER AND CHEMICAL NAME

Enter the Chemical Abstracts Service (CAS) registry number for the chemical being reported. If you are reporting one of the chemical categories (e.g. copper compounds) enter ¼NA in the CAS number space.

Enter the name of the chemical or chemical category as it is listed in 40 CFR 372.45 (the chemical listing section of the regulation).

B. TRADE SECRET BLOCK

If you are claiming the identity of the chemical or chemical category being reported as a trade secret, indicate this by marking the trade secret block. As discussed in Unit D. of these instructions you must also provide an explanation of this trade secrecy claim as part of the submission. If you claim chemical identity as trade secret you must complete Section IV.C.

C. GENERIC CLASSIFICATIONS OF THE CHEMICAL OR CHEMICAL CATEGORY

Complete Section IV.C. if you are claiming the chemical identity as a trade secret (also see D. below). For the purposes of trade secret claims, all listed chemicals and chemical categories are pre-classified under one of the following generic groups:

C1	Hydrocarbons
C2	Halogenated Alkanes
C3	Halogenated Alkenes
C4	Halogenated Aromatics
C5	Hydroxy Compounds
C6	Ethers and Epoxides
C7	Aldehydes and Ketones
C8	Carboxylic Acids, Esters, Lactones, and Anhydrides
C9	Other Carboxylic Acid Derivatives
C10	Amines
C11	Amine Derivatives
C12	Nitro and Nitroso Compounds
C13	Phosphorus and Sulfur Compounds
C14	Azo and Hydrazo Compounds
C15	Metal Containing Compounds
C16	Non-Metal Inorganic Compounds

Enter both the Generic Classification code and the corresponding Generic Classification name in the spaces provided. For example, a company makes styrene and claims this identity as trade secret. The chemical list in 40 CFR 372.45 shows that styrene has been assigned to generic classification code "C1" which corresponds to the generic classification name "Hydrocarbon." The company would then enter "C1" "Hydrocarbon" in the spaces provided in Section IV.C.

D. MIXTURE OR TRADE NAME PRODUCT IDENTIFICATION

Complete this section only if you are reporting based on the use or processing of a mixture or other trade name product and you do not know the specific listed toxic chemical that is in the product. Again, refer to Figure 2 of these instructions to help you determine the proper information to enter on the form.

Enter the name of the mixture or trade name product on the line provided.

Enter in Section IV.C. the generic classification name of the toxic chemical if the supplier of the product provided this identity to you instead of a listed toxic chemical name.

Finally, answer the question in Section IV.D. that relates to your having been able to determine the percent by weight of the toxic chemical in the product. If your answer is "yes" then you must complete the remainder of the questions on the form. If your answer is "no" then you are only required to complete through Section V. of the form.

SECTION V -- ACTIVITIES AND USES OF THE TOXIC CHEMICAL AT THE FACILITY:

This section requires an indication of whether the chemical is manufactured (including imported), processed, or otherwise used at the facility and the general nature of such uses. Mark all the appropriate block(s) in this section that apply. Following is an explanation of the activities and use indication terms:

A. MANUFACTURE

On-site use/processing. A chemical that is manufactured and then further processed or otherwise used at that same facility.

Sale/Distribution. A chemical which is manufactured specifically for sale or distribution outside the manufacturing facility.

Byproduct. A chemical produced without a separate commercial intent during the production, processing, use, or disposal of another chemical substance or mixture, and following its production, separated from that other chemical substance or mixture.

Impurity. A chemical that is unintentionally produced with another chemical substance and not separated.

B. PROCESS

Reactant. A natural or synthetic chemical used in chemical reactions for the manufacture of another chemical substance or product. Includes but is not limited to feedstock, raw materials, intermediates, and initiators.

Formulation Component. A chemical added to a product or product mixture prior to use or distribution that aids in the performance of the product in its use. Examples include but are not limited to additives, dyes, reaction diluents, initiators, solvents, inhibitors, emulsifiers, surfactants, lubricants, flame retardants, and rheological modifiers.

Repackaging. Processing or preparation of a chemical or product mixture for distribution in commerce in a desirable form, state, and/or quantity.

Article Component. A chemical substance that becomes an integral component of an article for industrial, trade, or consumer use.

C. OTHERWISE USE

Chemical Processing Aid. A chemical that is added to a reaction mixture to aid in the manufacture or synthesis of another chemical substance but the chemical does not intentionally remain in or become part of the product or product mixture. Examples of such chemicals include but are not limited to process solvents, catalysts, inhibitors, initiators, reaction terminators, and solution buffers.

Manufacturing Aid. A chemical that, through its function, aids in a manufacturing process. Examples include but are not limited to lubricants, metalworking fluids, coolants, refrigerants, and hydraulic fluids.

Ancillary or Other Uses. A chemical that is used at a facility for purposes other than a chemical processing aid or manufacturing aid as described above. Includes but is not limited to cleaners, degreasers, lubricants, and fuels.

SECTION VI -- MAXIMUM AMOUNT OF THE CHEMICAL AT THE FACILITY:

Check the box next to the range that covers the maximum quantity of the chemical (in storage tanks, process vessels, on-site shipping containers etc.) at your facility at any time during the reporting year. If the chemical is present at several locations within your facility, use the maximum total amount present at any one time. Ranges of quantities should be selected from the table on the form. You are not required to report the maximum quantity itself on the form.

SECTION VII -- RELEASES TO THE ENVIRONMENT:

In Section VII of the form you are to account for the total aggregate annual releases of the chemical to each environmental medium. These total releases include "routine" emissions plus any amount released "accidentally."

Under Title III a release is defined as any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any "toxic chemical" (i.e., a chemical listed in Subpart C of the regulation). Under this section of the form you are required to estimate both the direct releases or emissions from your facility to the environment as well as your transfers of the chemical to off-site treatment or disposal locations as part of waste.

To provide the release information required in this section of the form, you may use readily available data (including monitoring data and emissions measurements) collected pursuant to other provisions of law or as part of routine plant operations. Where monitoring data or emission measurements are not readily available, reasonable estimates of the amounts released may be made using published emission factors, material balance calculations, or engineering calculations. Do not use emission factors or calculations to estimate releases if more accurate data are available. No monitoring or measurement of the quantities, concentration, or frequency of any toxic chemical released into the environment, beyond that monitoring and measurement required under other provisions of law or regulation, is required for the purpose of completing this form.

For releases to each media you must answer four questions: (1) How much of the chemical was released (in pounds per year)?, (2) Was any portion of that release (except releases to off-site locations) reported under the emergency notification provisions of section 304 of Title III?, (3) What is the basis of estimate (e.g., what was the primary estimation method used to determine the quantity released)? and (4) Is the release specifically covered by a relevant environmental permit held by the facility?

Quantity Estimates:

Estimate as accurately as possible the quantities in pounds of only the listed chemical or chemical category that are released annually to each environmental medium. Do not include in this estimate other components of the waste stream. If you are reporting a listed category, combine the release data for all substances in the listed chemical category (e.g., all glycol ethers) and report this aggregate on a single form. Do not report releases of each individual chemical in that category on a separate form. In all other cases a separate form is required for each listed chemical being reported.

For metal compound categories report releases of only the parent metal. For example, a user of various inorganic nickel salts would report the total nickel released in each waste regardless of the nickel's form (as the original salts, nickel ion, oxide, etc.), and excluding any contribution to mass made by other species in the molecule.

Basis of Estimate:

For each release estimate you are required to indicate the principal method by which the quantity was derived. Enter the letter code which applies to the derivation of the largest portion of the total quantity estimated.

For example, if 40 percent of stack emissions were derived using monitoring data, 30 percent by mass balance, and 30 percent by emission factors, enter the code letter "M" for monitoring.

The codes are as follows:

M - based on monitoring data or measurement for the chemical in the wastestream as released.

B - based on a mass balance such as the amount of the chemical in streams entering and leaving process equipment.

E - based on published emission factors such as those relating release to throughput or equipment type.

O - based on other approaches such as engineering calculations (for example, estimating volatilization using published mathematical formulas) or best engineering judgment. This would include applying an estimated removal efficiency to a wastestream even if the stream before treatment were fully characterized by monitoring data.

The monitoring data, mass balance, or emission factor must be specific to the chemical being reported. Otherwise, the estimate should be considered to be based on engineering calculations or judgment. For example, if a mass balance yields the flow rate of an aqueous waste but the quantity of chemical in the waste is based on solubility data, report "O" because "engineering calculations" were used as the basis of estimate. Alternatively, if the concentration of the chemical in the wastewater was measured, then the primary basis of estimate is "monitoring" even though a mass balance calculation also contributed to the estimate. Use of mass balance should only be indicated if it directly calculates the mass (weight) of chemical released. Use of

monitoring data should be indicated as basis of estimate only if the chemical concentration is measured in the wastestream being released into the environment as opposed to measured in other process streams containing the chemical.

Title III, Section 304 Release:

Certain of the toxic chemicals subject to section 313 reporting are subject to emergency notification provisions of Title III. If your facility has reported an emergency release of the toxic chemical during the calender year under Title III Section 304 then you must check the box "YES" in the column labeled "Title III Section 304 Release?." Section 304 is the emergency notification provision of Title III. Chemicals subject to this notification are those "extremely hazardous chemicals" as listed under section 302 of Title III and chemicals subject to section 103 of CERCLA.

Permit Applies To Release:

The last column in Section VII asks for a "yes" or "no" indication of whether the toxic chemical released is specifically covered by an environmental permit. In general, a facility would answer "yes" if the permit specifically includes or cites the reported toxic chemical.

A. EMISSIONS TO THE AIR

1. Fugitive or Nonpoint Air Emissions. Enter the total quantity of emissions of the chemical to the air which is not released through stacks, vents, ducts pipes, etc or any other confined air stream. Include (1) fugitive equipment leaks from valves, pump seals, flanges, compressors, sampling connections, open ended lines, etc., (2) evaporative losses from surface impoundments, (3) releases from building ventilation systems, and (4) any other fugitive or nonpoint air emissions.

2. Stack or Point Air Emissions. Enter the total emissions of the chemical to the air which are released through stacks, vents, ducts, pipes, etc. Include storage tank emissions. Air releases from control equipment would generally fall in this category.

All air releases of the chemical from the facility should be accounted for. In case of doubt about whether an air release is fugitive or stack in nature, it is more important that the release be included as one or the other than be omitted. Do not enter information on individual emissions points or releases on the form.

For both fugitive and stack point emissions, check the appropriate box in the column titled "Permit Applies To Release?" Indicating YES means that the facility has determined that the permit specifically includes or cites the chemical being emitted. For example, a permit may set a numerical emission limit to control quantities of on or more specific chemical released. The facility would answer "NO" if a permit sets a performance standard for process equipment in which a chemical is made or used but the permit does not specify the chemical. Some facilities may have several similar emissions controls that treat the same toxic chemical. If some but not all have permits that cite the specific chemical, the the facility may still answer "YES" in the permit column.

B. DISCHARGES TO WATER

Direct Discharges. Enter the total annual amount of the chemical released from all discharge points at the facility to surface waters (rivers, lakes, streams, etc.) Include both process outfalls such as pipes and open trenches and releases from on-site wastewater treatment systems in this category. Include in the total any contribution from stormwater if your permit includes stormwater sources. Do not include "indirect" discharges to surface waters such as to a POTW or off-site wastewater treatment facility. Check "YES" in the "Permit Applies To Release" column if the discharge of this chemical is specifically covered by your facility's NPDES permit.

C. RELEASES TO LAND

Report quantities of the chemical that were disposed of within the confines of the facility. Enter the appropriate disposal code from Unit E of these instructions in the space provided. These types of disposal include placement in surface impoundments in addition to subsurface disposal in landfills, infiltration lagoons and septic systems, or underground injection wells.

For the purposes of this form, a surface impoundment is considered "final disposal." Quantities of the chemical released to impoundments which are merely part of a wastewater treatment process generally should not be reported here. If the impoundment accumulates sludges containing the chemical, include an estimate here of the annual accumulation of the chemical in such sludges. If, however, the sludges were removed from the impoundment during the year and disposed of in a different manner (e.g., if the sludge is disposed of in a different manner at the facility or if it is transfered to an off-site location) then the amount of the chemical disposed should be reported under a different code in this section or it should be reported in section VII.D. as an off-site release.

Report the amounts that are placed in infiltration lagoons and/or septic systems as one total, since both are designed to allow wastes to percolate into near-surface soil.

For the purposes of this reporting, storage tanks are not considered to be a type of disposal and are not to be reported in this section of the form.

Enter the quantitiy released in pounds per year. Four lines are provided in this section of the form to accommodate various types of land disposal. If more space is needed, mark the box at the bottom of this section and attach a continuation sheet.

Check "YES" in the "Permit Applies To Release" column only if the chemical is part of a RCRA-covered hazardous waste.

D. TRANSFERS TO OFF-SITE LOCATIONS

Report in this section the quantity of the chemical sent to any of the off-site disposal, treatment, or storage facilities for which you have provided an address in Section III of the form.

Line D.1. is for releases to a POTW.

Lines D.2., D.3., and D.4. are provided for releases to other off-site locations, including off-site private wastewater treatment. For these lines you must enter the block number from Section III.B. of the form that corresponds to the off-site location to which you are transfering the chemical. If you need additional space check the box at the bottom of Section VII and attach a continuation sheet.

Check "YES" in the "Permit Applies To Release" column only if the chemical is part of a RCRA covered hazardous waste.

SECTION VIII -- WASTE TREATMENT METHODS AND EFFICIENCY:

In Section VIII, report waste treatment methods used on wastestreams containing the chemical; the range of concentrations of the chemical in the influent to the treatment method; the effectiveness of each treatment method in removing the chemical; and indicate whether the treatment efficiency figure was based on actual operating data.

General Wastestream:

For each waste treatment method reported, indicate the type of wastestream containing the chemical that is treated. Mark one box that corresponds to the general wastestream:

G = Gaseous

W = Wastewater

L = Liquid waste (non-aqueous)

S = Solid waste (including sludges and slurries)

Waste Treatment Methods:

Codes for treatment methods are included in Unit E of these instructions. Enter the code for each treatment method used in connection with wastes containing the chemical being reported.

Treatment methods are to be reported by type of waste being treated, i.e. gaseous wastes (including gases, vapors, particulates), aqueous wastes, liquid non-aqueous, or solids. Where a waste is a mixture of water and organic liquid, report it under aqueous wastes unless the organic content exceeds 50 percent. Slurries containing water should be reported as solids if they contain appreciable amounts of settlable or dissolved solids such that the viscosity or density of the waste is considerably different from that of process wastewater.

Wastestreams may have a single source or may be aggregates of many sources, as when process water from several pieces of equipment is combined prior to treatment. Report treatments that apply to the aggregate wastestream. However, if your facility treats various wastewaters in different ways, then the different treatment methods must each be listed.

For any given wastestream, waste treatment may be a single step or a multiple step process. Where waste treatment consists of several of the methods, choose the method listed in Unit E of these instructions that best describes the treatment applied to that wastestream. You are not required to separately list each part of the process. Note, however, that a wastewater treatment step and further incineration of the sludge from wastewater must be reported separately: one treats the aqueous waste, the second treats a distinctly different "solid" waste.

Your facility may have several pieces of equipment in similar service. It is not necessary to enter four lines of data to cover four scrubbers, for example, if all four are treating wastes of similar character (e.g., gaseous emissions), have similar influent concentrations, and have the same removal efficiency.

Range of Influent Concentration:

The form requires an indication of the range of concentration of the chemical in the wastestream (i.e., the influent) as it typically enters the treatment equipment. Enter one of the following code numbers in the space provided that corresponds to the relative concentration of the chemical in the influent:

1 = (for liquid or solid) Greater than 1 percent
(for gaseous) Greater than 10,000 milligrams per cubic meter

2 = (for liquid or solid) 100 parts per million (0.01 percent) to 1 percent
(for gaseous) 100 milligrams per cubic meter to 10,000 milligrams per cubic meter

3 = (for liquid or solid) 1 part per million to 100 parts per million
(for gaseous) 1 milligram per cubic meter to 100 milligrams per cubic meter

4 = (for liquid or solid) 1 part per billion to 1 part per million
(for gaseous) 1 microgram per cubic meter to 1 milligram per cubic meter

5 = (for liquid or solid) Less than 1 part per billion
(for gaseous) Less than one microgram

Treatment Efficiency:

In the space provided enter a number for the percent removal of the listed chemical (not other waste constituents) from the wastestream. The treatment efficiency expressed as percent removal represents any destruction, biological degradation, chemical reaction, or physical removal of the chemical from the wastestream being treated. This efficiency should represent the mass or weight percent of chemical destroyed or removed, and not just changes in volume or concentration of the chemical or its wastestream. For some treatments, the percent removal will represent removal by several mechanisms such as in secondary wastewater treatment where a chemical may evaporate, may be biodegraded, and may be physically removed in the sludge.

Percent removal should be calculated as follows:

$$\frac{(I - E)}{I} \times 100$$

where I = mass of the chemical in the influent waste
and E = mass of the chemical in the effluent waste

The mass or weight of chemical in the wastestream being treated should be calculated by multiplying the concentration (by weight) of the chemical in the wastestream times the flowrate. When calculating or estimating percent removal efficiency for various wastestreams, the percent removal should compare the gaseous effluent from treatment, to the gaseous influent, the aqueous effluent from treatment to aqueous influent, and likewise for organic liquid and solid waste. However some treatment methods may not result in comparable form of effluent wastestreams. Such an example would be incineration of wastewater, where the percent removal of the chemical from the influent wastestream would be reported as 100 percent.

Some of the treatments listed in Unit E do not destroy, chemically react, or physically remove the chemical from its wastestream. Some examples of these include fuel blending or encapsulation. For these treatments, an efficiency of zero should be reported. The facility should report the concentration of the chemical in the waste before treatment.

All available data should be utilized to calculate treatment efficiency and influent chemical concentration. If such data are lacking, then estimates will have to be made using best engineering judgment or other methods. Methods for calculating releases and treatment efficiencies are further discussed in the technical guidance document cited at the beginning of this Unit.

For metal compounds, the reportable concentration and treatment efficiency should be calculated based on the weight of the parent metal and not the weight of the metal compound(s). Metals are not destroyed but can only be physically removed or chemically converted from one form into another. Therefore, the treatment efficiency reported should only represent physical removal of the parent metal, not the percent chemical conversion of the metal compound. If a listed treatment method converts but does not remove a metal, the method should be reported but the treatment efficiency should be reported as zero.

Based on Operating Data?

This column requires you to indicate "yes" or "no" whether the treatment efficiency estimate is based on actual operating data. For example, you would check "yes" if the estimate is based on monitoring of influent and effluent wastes under typical operating conditions. If the efficiency estimate is based on published data for similar processes or on equipment supplier's literature, you would check "no."

SECTION IX -- OPTIONAL INFORMATION ON WASTE MINIMIZATION:

Information provided in Section IX of the form is optional. This section allows the facility to describe waste minimization efforts involving the chemical. The facility may choose to provide a narrative of its waste minimization projects. EPA would prefer, however, for ease of data entry, that the following elements be included as shown on the form.

Type of modification:

Enter one code from the following list that best describes the type of waste minimization activity:

M1 recycling/reuse on-site
M2 recycling/reuse off-site
M3 equipment/technology modifications
M4 process procedure modifications
M5 reformulation/redesign of product
M6 substitution of raw materials
M7 improved housekeeping training, inventory control

Quantity of chemical in the wastestream prior to treatment/disposal:

Enter the pounds of the reported chemical in the waste(s) in the reporting year and the pounds in the waste(s) in the year prior to implementing waste minimization. Alternatively, to protect confidential information, you may wish to enter only the percent by which the weight of the chemical in the waste has changed.

Index:

Enter the ratio of reporting year production to production in the base year. This index should be calculated to most closely reflect activites involving the chemical. Examples of acceptable indices include:

chemical produced in 1987/chemical produced in 1986.
paint produced in 1987/paint produced in 1986.
appliances coated in 1987/appliances coated in 1986.
sq.ft. of solar collector fabricated in 1987/sq.ft. of solar collector fabricated in 1986.
value of sales in 1987/value of sales in 1986.

For example, a company manufactures 200,000 pounds of a chemical in 1986 and 250,000 pounds of the same chemical in 1987. The index figure to report would be 1.3 (1.25 rounded). The index provides a means for users of the data to sort out the effect of change in business activity from the waste minimization project proper. It is not necessary to indicate the units on which the index was based.

Reason for action:

Finally, enter the code(s) from the following list that best describe the reason for initiating the waste minimization effort:

R1 regulatory requirement for the waste
R2 reduction of treatment/disposal costs
R3 other process cost reduction

Narrative description:

Use the space provided to describe your waste minimization activities as a supplement to, or in lieu of information provided in the coded part of this section.

UNIT D -- TRADE SECRECY CLAIMS AND THE EXPLANATION

Section 322 of Title III provides that the specific chemical identity (including the chemical or chemical category name and other specific identification) may be designated by the facility as a trade secret. To do so, check the box in Section IV.B. of the form indicating that the identity of the chemical is being claimed as a trade secret. As explained in Unit C.IV.C. of these instructions, enter the appropriate code number and the assigned generic classification name in the space provided.

If you claim chemical identity as trade secret you must submit two copies of the form to EPA. One copy will be the complete submission including the chemical name and CAS number. The second copy will be a "sanitized" version in which the CAS number and chemical name is left blank in Section IV.A. and B. of the form. This sanitized version is the form that will be made available to the public. Also this non-trade secret copy is the copy of the form to be submitted to the State.

Any facility claiming trade secret protection for a chemical identity must also submit an explanation of this claim at the time the form is submitted. This explanation must demonstrate that all of the following statements are true for the chemical or chemical category being reported:

1. That the facility has not disclosed the fact that the chemical is manufactured, processed or otherwise used at the facility to any other person, other than a member of a local emergency planning committee, an officer or employee of the United States or a State or local government, an employee of such person, or a person who is bound by a confidentiality agreement.

2. That the facility has taken reasonable measures to protect the confidentiality of such information and will continue to take such measures.

3. That the information is not required to be disclosed or otherwise made available to the public under any other Federal or State law.

4. That disclosure of the information is likely to cause substantial harm to the competitive position of the facility.

5. That the chemical identity is not readily discoverable through reverse engineering.

This explanation must be submitted with the copy of the form that contains the specific chemical identity to EPA. Otherwise the trade secret claim will be disallowed without further notice to you.

The submission should be sent by registered mail, return receipt requested.

The facility may claim parts of the explanation document as confidential if that information would reveal the chemical identity claimed as a trade secret or would reveal other confidential business or trade secret information. To make this claim the facility should clearly designate those portions of the document that are claimed as confidential. The facility must include a certification that those portions of the substantiation document claimed as confidential would, if disclosed, reveal the chemical identity being claimed as a trade secret, or would reveal other business confidential or trade secret information. This certification must be signed by the same senior management official that signs the form certification statement.

The facility must submit sanitized copies of this explanation to EPA and the State because this explanation must also be made available to the public. Information claimed as trade secret or otherwise confidential business in the explanation should be omitted from this version of the explanation document.

UNIT E -- DISPOSAL AND WASTE TREATMENT CODES

DISPOSAL CODES

1D	Landfill
2D	Land treatment
3D	Surface impoundment (to be closed as a landfill)
4D	Underground injection
5D	Infiltration lagoon or septic system
6D	Transfer to waste broker

WASTE TREATMENT CODES

(a) Incineration/thermal treatment

1I	Liquid injection incineration
2I	Rotary kiln incineration
3I	Fluidized bed incineration
4I	Multiple hearth chamber incineration
5I	Pyrolytic destruction
6I	Other incineration/thermal treatment

(b) Reuse as fuel

1RF	Cement kiln
2RF	Aggregate kiln
3RF	Asphalt kiln
4RF	Other kiln
5RF	Blast furnace
6RF	Sulfur recovery furnace
7RF	Smelting, melting, and refining furnace
8RF	Coke oven
9RF	Other furnace
10RF	Industrial boiler
11RF	Utility boiler
12RF	Other reuse as fuel

(c) Fuel blending

1FB	Fuel blending (general)

(d) Solidification

1S	Cement-based processes
2S	Pozzolanic processes
3S	Asphaltic processes
4S	Thermoplastic techniques
5S	Organic polymer techniques
6S	Macro-encapsulation
7S	Other solidification

(e) Recovery of solvents and other organic chemicals

1SR Fractionation
2SR Batch still distillation
3SR Solvent extraction
4SR Thin film evaporation
5SR Other solvent recovery

(f) Recovery of metals

1MR Activated carbon (for metals recovery)
2MR Electrodialysis (for metals recovery)
3MR Electrolytic metal recovery
4MR Ion exchange (for metals recovery)
5MR Reverse osmosis (for metals recovery)
6MR Solvent extraction (for metals recovery)
7MR Ultrafiltration (for metals recovery)
8MR Other metals recovery

(g) Wastewater treatment

i. Cyanide oxidation

1WT Alkaline chlorination
2WT Ozone
3WT Electrochemical
4WT Other cyanide oxidation

ii. Chemical precipitation (pH adjustment, flocculation, and settling (see Note 1)

5WT Lime
6WT Sodium hydroxide
7WT Soda ash
8WT Sulfide
9WT Other precipitation

iii. Chromium reduction

10WT Sodium bisulfite
11WT Sulfur dioxide
12WT Ferrous sulfate
13WT Other reduction

iv. Complexed metals treatment

14WT High pH precipitation
15WT Other complexed metals treatment

v. Emulsion breaking

16WT Thermal
17WT Chemical
18WT Other emulsion breaking

vi. Adsorption

19WT Carbon adsorption
20WT Ion exchange
21WT Resin adsorption
22WT Other adsorption

vii. Stripping

23WT Air stripping
24WT Steam stripping (Note 2)

viii. Filtration

25WT Diatomaceous earth
26WT Sand
27WT Multimedia
28WT Other filtration

ix. Dewatering operations

29WT Gravity thickening
30WT Vacuum filtration
31WT Pressure filtration (belt, plate and frame, leaf)
32WT Centrifuge
33WT Other dewatering

x. Air flotation

34WT Dissolved air flotation
35WT Other air flotation

xi. Oil skimming

36WT Gravity separation
37WT Coalescing plate separation
38WT Other oil skimming

xii. Aerobic biological treatment

39WT Activated sludge
40WT Rotating biological contactor
41WT Trickling filter
42WT Waste stabilization pond
43WT Nitrification
44WT Other aerobic treatment

xiii. Anaerobic biological treatment

45WT Anaerobic digestion
46WT Denitrification
47WT Other anaerobic treatment

xiv. Other wastewater treatment

48WT Wet air oxidation
49WT Neutralization
50WT Other wastewater treatment
51WT Primary wastewater treatment system
52WT Secondary wastewater treatment system
53WT Tertiary wastewater treatment system

(h) Treatment of air emissions

1AT Thermal oxidizer
2AT Catalytic incineration
3AT Flare
4AT Condenser
5AT Scrubbers
6AT Absorbers
7AT Filters
8AT Electrostatic Precipitations
9AT Carbon adsorption
10AT Other adsorption
11AT Mechanical separation
12AT Other air emission control

NOTES:

1. Chemical precipitation is a treatment operation whereby the pH of a waste is adjusted to the range necessary for removal (precipitation) of contaminants. For purposes of this reporting flocculation and settling are considered part of the system. NOTE: if the pH is adjusted solely to achieve a neutral pH, THE OPERATION IS NEUTRALIZATION.

2. As a treatment operation, steam stripping is the removal of organic contaminants from a waste using direct or indirect contact steam for the primary purpose of complying with publicly owned treatment works (POTW) or National Pollutant Discharge Elimination System (NPDES) wastewater discharge limitations.

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federal register

Thursday
June 4, 1987

Part III

Department of the Interior

Minerals Management Service

Proposed 1989 Lease Sales in the Gulf of Mexico OCS Region; Call for Information and Nominations and Notice of Intent To Prepare an Environmental Impact Statement; Notice

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE
Proposed 1989 Lease Sales in the
Gulf of Mexico OCS Region
Call for Information and Nominations
and
Notice of Intent to Prepare an Environmental Impact Statement

CALL FOR INFORMATION AND NOMINATIONS

Purpose of Call

The purpose of the Call is to assist the Secretary of the Interior in carrying out his responsibilities under the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1331-1343), as amended, and regulations appearing at 30 CFR 256.23 with regard to proposed OCS Lease Sales 118 and 122, tentatively scheduled for March 1989 and August 1989, in the Central and Western Gulf of Mexico, respectively. The proposed lease sales are identified in the Proposed Final 5-Year Outer Continental Shelf Oil and Gas Leasing Program for Mid-1987 through Mid-1992, dated April 1987.

This initial information-gathering step is important for ensuring that all interests and concerns are communicated to the Department of the Interior (DOI) for future decision points in the leasing process. It should be recognized that this Notice does not indicate a preliminary decision to lease in the areas described below.

Information submitted in response to this Call will be used for several purposes. First, responses will be used to identify the areas of potential for oil and gas development. Second, comments on possible environmental effects and use conflicts will be used in the analysis of environmental conditions in and near the Call area. Together these two considerations will allow a preliminary determination of the potential advantages and disadvantages of oil and gas exploration and development to the region and the Nation. Thus, it may be possible to make key decisions in connection with the next step in the planning process--Area Identification--to resolve conflicts by deleting areas where there is sufficient information to justify that action. However, the Area Identification represents only a preliminary step to select the area to be analyzed in the environmental impact statement (EIS). The Area Identification is scheduled for August 1987.

A third purpose for this Notice is to use the comments collected to initiate scoping of the EIS, which will include public meetings, and to identify and analyze alternatives to the proposed action. A Notice of Intent (NOI) to Prepare an EIS which covers scoping is located later in this document. Fourth, comments may be used in developing lease terms and conditions to assure safe offshore operations. Fifth, comments may be used in understanding and considering ways to avoid or mitigate potential conflicts between offshore oil and gas activities and the Gulf Coast States' Coastal Management Programs (CMP's).

Description of Area

The general area of this Call covers the entire central and western portions of the Gulf of Mexico between approximately 88° W. longitude on the east and approximately 97° W. longitude on the west and extends from the Federal-State boundaries seaward to the provisional maritime boundary between the United States and Mexico. The entire Call area is offshore the States of Texas, Louisiana, Mississippi, and Alabama. This area is divided into two planning areas for individual 1989 lease sales in the Central and Western Gulf of Mexico.

The Central Gulf of Mexico (CGOM) planning area is bounded on the east by approximately 88° W. longitude. Its western boundary begins at the offshore boundary between Texas and Louisiana and proceeds southeasterly to approximately 28° N. latitude, thence east to approximately 92° W. longitude, thence south to the provisional maritime boundary with Mexico which constitutes the southern boundary of the area. The northern part of the area is bounded by the Federal-State boundary offshore Louisiana, Mississippi, and Alabama.

The Western Gulf of Mexico (WGOM) planning area is bounded on the west and north by the Federal-State boundary and on the east by the Central Gulf of Mexico planning area. The area extends south to the provisional maritime boundary with Mexico.

The following list comprises the Leasing Maps and the OCS Official Protraction Diagrams used in identifying this Call area. These maps and diagrams may be purchased from the Public Information Unit, Gulf of Mexico OCS Region, at the address stated below under "Instructions on Call."

1. Central Gulf of Mexico (CGOM)

Leasing Maps

Outer Continental Shelf Leasing Maps - Louisiana Nos. 1 through 12.

This set of 27 maps sells for $17.00.

Outer Continental Shelf Official Protraction Diagrams

These diagrams sell for $2.00 each.

		Date of Issue
NH 15-12	Ewing Bank	December 2, 1976
NH 16-4	Mobile	April 19, 1983
NH 16-7	Viosca Knoll	December 2, 1976
NH 16-10	Mississippi Canyon	December 2, 1976
NG 15-3	Green Canyon	December 2, 1976
NG 15-6	Walker Ridge	December 2, 1976
NG 15-9	(No Name)	March 3, 1987
NG 16-1	Atwater Valley	November 10, 1983
NG 16-4	(No Name)	December 2, 1976
NG 16-7	(No Name)	March 3, 1987

2. Western Gulf of Mexico (WGOM)

Leasing Maps

Outer Continental Shelf Leasing Maps - South Texas Nos. 1 through 4, with Map 1A revised as of December 16, 1985.

This set of seven maps sells for $5.00

Outer Continental Shelf Leasing Maps - East Texas Nos. 5 through 8. This set of nine maps sells for $7.00.

Outer Continental Shelf Official Protraction Diagrams

These diagrams sell for $2.00 each.

		Date of Issue
NG 14-3	Corpus Christi	January 27, 1976
NG 14-6	Port Isabel	December 16, 1985
NG 15-1	East Breaks	January 27, 1976
NG 15-2	Garden Banks	December 2, 1976
NG 15-4	Alaminos Canyon	December 16, 1985
NG 15-5	Keathley Canyon	March 3, 1987
NG 15-8	(No Name)	March 3, 1987

Areas Deferred from this Call

1. High Island Area, East Addition, South Extension, dated October 19, 1981, (Flower Gardens), Block A-375 and Block A-398 (WGOM).

Instructions on Call

A standard Call for Information Map specific to this event delineates the Call area and shows the area identified by the Minerals Management Service (MMS) as having potential for the discovery of accumulations of oil and gas. Respondents are requested to indicate interest in and comment on any or all of the Federal acreage within the boundaries of the Call area that they wish to have included in proposed OCS Lease Sales 118 and 122. Boundaries of the Call area are shown on the standard Call for Information Map available free from the Public Information Unit, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394, telephone (504) 736-2519. Although individual indications of interest are considered to be privileged and proprietary information, the names of persons or entities indicating interest or submitting comments will be of public record. Those indicating such interest are required to do so on the standard Call for Information Map. Interest should be shown by outlining the areas of interest along block lines.

Respondents may submit a detailed list of whole and partial blocks nominated (by OCS Leasing Map numbers and Official Protraction Diagram designations) to ensure correct interpretation of their nominations. The telephone number and name of a person to contact in the respondent's organization for additional information should be included.

Respondents should rank areas in which they have expressed interest according to priority of their interest (e.g., priority 1 (high), 2 (medium), or 3 (low)). We encourage respondents to be specific in listing blocks by priority. The information is very helpful in assessing the area to be identified for further study at future sale decision points. Blanket nominations on large areas are not as useful in providing information pertinent to analysis of industry interest. Areas where interest has been indicated but which have no specified priorities will be considered priority 3. Information concerning both location and priority of interest submitted by individual respondents will be held proprietary and confidential and will help determine the area upon which the EIS analysis will be focused. In addition to indications of interest by respondents, further consideration of areas for analysis in the EIS will be based on hydrocarbon potential and environmental, economic, and multiple-use (including military use) conditions.

Comments are sought from all interested parties about particular geological, environmental, biological, archaeological, socioeconomic conditions, conflicts, or other information which might bear upon the potential leasing and development of particular areas. Comments are also sought on possible conflicts between future OCS oil and gas activities that may result from the proposed sales and State CMP's. If possible, these comments should identify specific CMP policies of concern, the nature of the conflict foreseen, and steps that the MMS could take to avoid or mitigate the potential conflict. Comments may either be in the terms of broad areas or restricted to particular blocks of concern. Those submitting comments are requested to outline the subject area on the standard Call for Information Map.

Indications of interest and comments must be received no later than 45 days following publication of this document in the Federal Register in envelopes labeled "Nominations for Proposed 1989 Lease Sales in the Gulf of Mexico" or "Comments on the Call for Information and Nominations for Proposed 1989 Lease Sales in the Gulf of Mexico."

The standard Call for Information Map and indications of interest and/or comments must be submitted to the Regional Supervisor, Leasing and Environment, Gulf of Mexico OCS Region, at the address stated above under "Instructions on Call."

Tentative Schedule

Final delineation of the areas for possible leasing will be made at a later date only after compliance with established Departmental procedures, all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347), and the OCSLA, as amended. A final Notice of Sale for each sale held will be published in the Federal Register detailing areas to be offered for competitive bidding, stating the terms and conditions for leasing, and announcing the location, date, and time bids will be received and opened.

Tentative milestones for these sales are as follows:

	CGOM Sale 118	WGOM Sale 122
Comments due on the Call	July 1987	July 1987
NOI Comments Due (Scoping)	July 1987	July 1987
Area Identification	August 1987	August 1987
Draft EIS published	March 1988	March 1988
Hearings held on Draft EIS	April 1988	April 1988
Final EIS published	August 1988	August 1988
Proposed Notice of Sale announced	September 1988	February 1989
Governor's comments due on Proposed Notice	November 1988	April 1989
Final Notice of Sale published	January 1989	June 1989
Sale Date	March 1989	August 1989

Existing Information

Information already available includes that previously gathered during the EIS process for the Proposed Final 5-Year Oil and Gas Leasing Program. In addition, comments previously received by the DOI from State and local governments, other Federal Agencies, environmental groups, and the oil and gas industry concerning past OCS actions will be used. The following is a list of other information which will be available to the DOI for consideration regarding the proposed 1989 OCS Lease Sales in the Gulf of Mexico.

Gulf of Mexico Indices and Summary Reports

1. Gulf of Mexico Index, December 1980 through August 1982, prepared for MMS.
2. Gulf of Mexico Index, September 1982 through July 1983, prepared for MMS.
3. Gulf of Mexico Summary Reports, 1983 through 1986, prepared for MMS.

Environmental Studies Program Information in the Central and Western Gulf of Mexico

The DOI initiated studies in these areas in 1973. The emphasis, including continuing studies, has been on geological mapping, environmental characterization of biologically sensitive habitats, physical oceanography, ocean circulation modeling, and ecological effects of oil and gas activities. These studies will provide useful information for a number of environmental issues including topographic features, deepwater biological communities on the continental slope, and coastal wetland habitats.

A complete listing of available study reports and information for ordering copies can be obtained from the Gulf of Mexico Regional Office at the address stated under "Instructions on Call," or by telephone at (504) 736-2519, Public Information Unit. The reports may also be ordered for a fee directly from the National Technical Information Service by calling (703) 487-4650. The mailing address is U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

In addition, a program status report for continuing studies in this area can be obtained from the Chief, Environmental Studies Section, Gulf of Mexico Regional Office at the address stated under "Instructions on Call" or by telephone at (504) 736-2896.

NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT

Purpose of Notice of Intent

Pursuant to the regulation (40 CFR 1501.7) implementing the procedural provision of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347), the MMS is announcing its intent to prepare an EIS regarding the oil and gas leasing proposals known as Sale 118 in the Central Gulf of Mexico and Sale 122 in the Western Gulf of Mexico. The Notice of Intent also serves to announce the scoping process which will be followed for the EIS. The scoping process is intended to involve Federal, State, and local governments and other interested parties in aiding the MMS in determining the significant issues and alternatives to be analyzed in the EIS.

The MMS is considering the possibility of also addressing in this same EIS the two 1990 Central and Western Gulf of Mexico sales (Sales 123 and 125). Such a 2-year EIS, if considered feasible, would be followed at a later date by an Environmental Assessment for the 1990 sales and whatever additional actions would be deemed necessary and appropriate.

The EIS analysis will focus on the potential environmental effects of leasing, exploration, and development of the blocks included in the areas defined in the Area Identification procedure as the proposed areas of the Federal actions. Alternatives to the proposal which may be considered for each sale are to delay the sale, cancel the sale, or modify the sale.

Instructions on Notice of Intent

Federal, State, and local governments and other interested parties are requested to send their written comments on the scope of the EIS, significant issues which should be addressed, and alternatives which should be considered, to the Regional Supervisor, Leasing and Environment, Gulf of Mexico OCS Region, at the address stated under "Instructions on Call" above. Comments should be enclosed in an envelope labeled "Comments on the Notice of Intent to Prepare EIS on the Proposed 1989 Lease Sales in the Gulf of Mexico." Comments are due no later than 45 days from the publication of this Notice. Also, scoping meetings may be held in appropriate locations for the purpose of obtaining additional comments and information regarding the scope of the EIS. The times and locations of these scoping meetings will be announced at a future date in the Federal Register and by press release.

Acting Director, Minerals Management Service

David W. Crow

Approved:

Assistant Secretary - Land and Minerals Management

J. Steven Griles

MAY 29 1987

Date

[FR Doc. 87-12637 Filed 6-3-87; 8:45 am]

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federal register

Thursday
June 4, 1987

Part IV

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Changes to the Return on Equity Capital Provisions and the Exemption From Cost Limits for Newly-Established Home Health Agencies; Final Rule With Comment Period

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC-325-FC]

Medicare Program; Changes to the Return on Equity Capital Provisions and the Exemption From Cost Limits for Newly Established Home Health Agencies

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final Rule with comment period.

SUMMARY: We are revising the regulations used to compute Medicare payment to certain providers of covered health care services, as follows:

- The allowance for a return on equity capital, which currently applies to all proprietary health care providers, will apply only to proprietary hospitals and skilled nursing facilities. Further, the allowance is reduced for skilled nursing facilities and outpatient hospital services.
- The exception to the home health agency cost limits for new agencies is eliminated.

DATES: *Effective dates:* These regulations are effective July 6, 1987.

However, see section IV.A. of the preamble for a discussion of the applicability of specific provisions.

Comment period: As discussed in section IV.C. of the preamble, we are providing a comment period concerning the reduction of the return on equity payments for all proprietary providers other than hospitals and SNFs. Comments about this provision will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on August 3, 1987.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-325-FC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC-325-FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION, CONTACT:

Anthony Coates, (301) 597-2886—Return on Equity Capital

Steve Kirsh, (301) 594-5403—Elimination of New HHA Exception.

SUPPLEMENTARY INFORMATION:

I. Return on Equity Capital

A. Background

Section 1861(v) of the Social Security Act (the Act) defines "reasonable cost" and provides that the necessary costs incurred by a provider (both direct and indirect) in the delivery of covered health care services are included in this definition. A return on equity capital is paid as an allowance in addition to the reasonable cost of covered services furnished to beneficiaries by proprietary providers.

Section 7 of the 1966 Amendments to the Social Security Act (Pub. L. 89-713), enacted November 2, 1966, added what is now section 1861(v)(1)(B) of the Act to require the Secretary to prescribe regulations that provide for the recognition of a reasonable return on equity capital for extended care services furnished to Medicare beneficiaries by proprietary facilities (skilled nursing facilities (SNFs)). The legislative history (112 *Cong. Rec.* 28,220 (1966) (Statement of Rep. Byrnes)) expressed congressional concern that a return on equity capital for SNFs was necessary for the following reasons:

- As a means of saving Medicare Part A (Hospital Insurance) trust funds, Congress wanted to encourage the transfer of hospital patients to SNFs when further hospitalization was no longer necessary.
- It was doubtful whether nonprofit organizations would be able to provide a sufficient number of beds to meet the needs of the aged.
- Private investors in SNF facilities should be guaranteed a fair return on the money that they put into the operation.

The conference committee report (H.R. Rep. No. 2317, 89th Cong., 2nd Sess. 3 (1966)) suggested that proprietary hospitals should be treated comparably to proprietary SNFs with respect to the return on equity capital provisions. In response to these congressional concerns, we published regulations at 42 CFR 405.429 on November 22, 1966 (31 FR 14816). (This section of the regulations was redesignated as 42 CFR 413.157 on September 30, 1986 (51 FR 34790)).

Under section 1861(v)(1)(B) of the Act, the Secretary determined that SNFs, the primary provider of extended care services, should receive an allowance for the net equity of the capital invested by private owners and that this return on equity capital provision should apply not only to proprietary SNFs but also to all other proprietary providers (which, at that time, encompassed hospitals and home health agencies (HHAs)). Subsequently, the Medicare program has recognized other proprietary health care entities (comprehensive outpatient rehabilitation facilities (CORFs), providers of outpatient physical therapy and speech pathology services (OPTs), independent organ procurement agencies (OPAs), histocompatability laboratories (Histo-Labs), and rural health clinics (RHCs)) to which the provisions in § 413.157 apply. (For purposes of the discussion below concerning return on equity, when we use the term "providers", it encompasses all of these proprietary entities that furnish health care services to beneficiaries under the Medicare program.)

Until recently, the annual rate of return, paid on this investment relative to all provider services furnished to Medicare beneficiaries, has been calculated by applying a percentage equal to one and one-half times the average (that is, 150 percent of the average) of the rates of interest on special issues of public debt obligations issued for purchase by the Federal Hospital Insurance (Medicare Part A) Trust Fund. This rate, as prescribed in § 413.157, was the *maximum* amount allowed for return on equity to SNFs under section 1861(v)(1)(B) of the Act.

Section 601(e) of the Social Security Amendments of 1983 (Pub. L. 98-21) amended section 1886 of the Act by adding section 1886(g)(2), which provided that, effective with cost reporting periods beginning on or after April 20, 1983 (the date of enactment of Pub. L. 98-21), the Secretary's return on equity capital provisions apply to inpatient hospital services but that the allowable return for those services be reduced from a percentage equal to 150 percent to 100 percent of the average of the rates of interest on special issues of public debt obligations issued for purchase by the Medicare Part A Trust Fund. It is noteworthy that, at that time, this was the only amendment to the Medicare provisions of the Social Security Act that ever explicitly addressed the payment of a return on equity capital for proprietary hospitals.

Congress, therefore, as of April 20, 1983 had specifically provided allowances for a return on equity capital to both proprietary hospitals and SNFs. In addition, we have the authority under section 1881(b)(2)(C) of the Act to provide an allowance for a return on equity capital to end-stage renal disease (ESRD) facilities. However, in establishing a prospective payment system for ESRD facilities in 1983 (48 FR 21254), we excluded an allowance for equity capital from the composite rates used in determining the ESRD prospective payment rates. We did so because the inclusion of a return in the rate base for ESRD facilities would weaken the incentives established through the prospective payment rates (48 FR 21261). These facilities are expected to earn a return on investment by reducing per treatment costs below their payment rates through management efficiencies.

B. Summary of the Return on Equity Provisions of the Proposed Rule

We published a proposed rule in the **Federal Register** on February 20, 1986 (51 FR 6139). In that document, we proposed the following changes:

- Elimination of the return on equity capital for proprietary providers other than hospitals and SNFs.
- Reduction of the rates of return on equity capital for SNFs and outpatient hospital services to the level that Congress mandated for inpatient hospital services in section 1886(g)(2) of the Act.

We stated in the proposed rule that payment rates are adequate to maintain the availability of services (other than hospital and SNF services) to Medicare beneficiaries. We also cited the report issued by the Department's Office of the Inspector General, recommending that we discontinue providing an allowance for a return on equity capital to providers other than hospitals and SNFs (Audit Control No. 09-32607, October 12, 1983).

We received 19 timely sets of comments raising several issues about these proposals. However, after the close of the comment period, as we discuss below, legislation was enacted that deals specifically with Medicare policy concerning return on equity capital. The legislation generally supports our proposal and therefore obviates the need to address most of the public comments. Those comments that dealt with aspects of our proposal that were not addressed in the legislation are discussed below.

C. Recent Legislation

On April 7, 1986, the President signed into law the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272). Section 9107 of that law amended sections 1861(v)(1), 1886(a)(4), and 1886(g)(2) of the Act to provide for the following:

1. Inpatient Hospital Services

Section 9107(a) of Pub. L. 99-272 amended section 1886(g)(2) of the Act by mandating a phase-down (and eventual elimination) of payments for return on equity capital for inpatient hospital services commencing with cost reporting periods beginning on or after October 1, 1986. The current payment (as provided by section 1886(g)(2) of the Act as it was enacted in Pub. L. 98-21) is calculated at 100 percent of the average of the rates of interest on special issues of public debt obligations issued for purchase by the Medicare Part A Trust Fund. The statutory change is self-implementing, and the phase-out reduces the rate to the following percentages:

- 75 percent for cost reporting periods beginning during fiscal year (FY) 1987.
- 50 percent for cost reporting periods beginning during FY 1988.
- 25 percent for cost reporting periods beginning during FY 1989.
- Zero percent for cost reporting periods beginning on or after October 1, 1989.

Under section 9321(c) of Pub. L. 99-509, issuance of final rules dealing with capital-related costs for inpatient hospital services are precluded until September 1, 1987. Therefore, conforming changes to the regulations dealing with the phase-out of the return on equity capital for inpatient hospital services will be published on or after September 1, 1987.

2. Services Other Than Inpatient Hospital Services

Section 9107(b)(2) of Pub. L. 99-272 amended section 1861(v)(1)(B) of the Act to provide that, for cost reporting periods beginning on or after October 1, 1985, the rate of return for SNFs must be equal to the average of the rates of interest on obligations issued for purchase by the Medicare Part A Trust Fund. In addition, section 9107(b)(1) of Pub. L. 99-272 added section 1861(v)(1)(P) to the Act to provide that if payment for a return on equity capital is provided for by regulations for services other than inpatient hospital services, the rate of return to be recognized for determining the reasonable cost of services furnished in a cost reporting period, beginning on or after October 1, 1985, must be equal to the average of the rates of interest on special issues of public debt obligations issued for purchase by the Medicare Part A Trust Fund. This latter provision, however, *applies only if* the Secretary provides in regulations for the payment of a return on equity capital for costs other than inpatient hospital services. The Secretary is not required to do so except for SNFs. The net effect of these provisions is that a rate of return must be provided for SNFs equal to the average of rates of interest on public debt obligations issued for purchase by the Part A Trust Fund and that, if we provide an allowance for a return on equity capital for other providers, the rate must be equal to that average.

D. Provisions of this Final Rule

In this final rule, we are conforming the regulations (with the exception of the phase-out of payments for return on equity capital for inpatient hospital services) to the provisions enacted in Pub. L. 99-272 that pertain to program payment of a return on equity capital. Where the provisions were mandated, they have been specifically adopted. Where the statutory language granted the Secretary discretionary authority, we have exercised this authority as discussed below. We have also given careful consideration to the timely comments received from the public on the proposed rule and have analyzed the alternatives suggested in those comments. We have decided to implement our proposal and the applicable provisions of Pub. L. 99-272 in the following manner:

- *SNF services and Outpatient Hospital Services (§ 413.157(b)(3)).* For cost reporting periods beginning on or after October 1, 1985, program payment of a return on equity capital for SNF services and outpatient hospital services is reduced to equal the average of interest on special issues of public debt obligations issued for purchase by the Part A Trust Fund.

Although many commenters on our proposed rule opposed any rate reduction, this change is statutorily mandated for SNFs by section 1861(v)(1)(B) of the Act, as amended by section 9107(b) of Pub. L. 99-272, and is authorized for outpatient hospital services by section 1861(v)(1)(P) of the Act, as added by section 9107(b) of Pub. L. 99-272.

- *Services of all nonhospital and non-SNF proprietary providers or health care entities § 413.157(b)(4).*

—For cost reporting periods beginning on or after October 1, 1985, but before [30 days after publication], program payment of a return on equity capital for

services of all nonhospital and non-SNF proprietary providers is reduced to equal the average of interest on special issues of public debt obligations issued for purchase by the Part A Trust Fund.

This change conforms to the statutory mandate of section 1861(v)(1)(P) of the Act, as enacted by section 9107(b) of Pub. L. 99–272. This section provides that the rate of return on equity capital (other than for inpatient hospital services) must be equal to the average of the rates of interest on obligations issued for purchase by the Part A Trust Fund.

—For cost reporting periods beginning on or after July 6, 1987, program payment will no longer be made for a return on equity capital for services of nonhospital and non-SNF proprietary providers.

As previously noted, Pub. L. 98–21 marked the first time that amendments to the Medicare provisions of the Social Security Act had ever explicitly addressed the payment of a return on equity capital for proprietary hospitals (or for any provider other than extended care facilities, that is, SNFs). Under the broad authority granted by the Medicare statute, the Secretary had extended the application of return on equity to other proprietary providers. Congress recognized this discretion when it passed section 9107 of Pub. L. 99–272. That is, except for inpatient hospital services (amended section 1886(g)(2) of the Act) and SNFs (amended section 1861(v)(1)(B) of the Act), Congress left to the Secretary the decision of whether to pay a return on equity to other providers (new section 1861(v)(1)(P) of the Act). Congress limited the Secretary's discretion solely by setting the allowable rate of return, if a return is paid.

We have decided that discontinuing the payment of return on equity for services furnished by nonhospital and non-SNF proprietary providers (as we recommended in our proposed rule) is appropriate. In the legislative history of Pub. L. 99–272, Congress expressed no intent that a return on equity be allowed to these providers or entities. Furthermore, we continue to believe that reasonable cost reimbursement, without an allowance for payment of return on equity, is adequate to maintain the availability of services to beneficiaries.

E. Discussion of Public Comments

As noted earlier; we received timely comments on our proposed rule from 19 commenters. The commenters consisted of providers, health care entities, associations representing HHAs and SNFs, State health facilities associations, an intermediary, an association that represents outpatient physical therapists and CORFs, and a national association of rehabilitation agencies. To a large extent, the comments have been made moot by Congress' passage of Pub. L. 99–272. As a result, in most cases it is not necessary to respond to the comments. However, there are certain points raised by commenters for which we are providing responses.

Comment—One commenter stated that the proposed changes to return on equity capital would create an incentive to borrow at rates higher than return on equity rates. Entities would incur interest expense that would be reimbursed by Medicare and the rate of interest would be higher than the return on equity rates because the loans would be largely unsecured and relatively risky.

Response—We do not believe that the elimination or reduction of return on equity creates an incentive to borrow money. In the case of HHAs, most are not capital-intensive in their operations and, in fact, many HHAs lease their facilities and thus are not dependent on return on equity payments to operate and remain competitive. CORFs, OPAs, RHCs, and Histo-labs are primarily nonprofit organizations and would not be significantly affected by the elimination of return on equity.

With regard to OPTs, we cannot be certain of the potential effect of eliminating return on equity because, as stated in our proposed rule, we do not have adequate cost report data from participating OPTs. Where the provider finds it necessary and proper to borrow money, the Medicare program recognizes interest paid on provider debts. The program's recognition of interest expense is subject to well-established policies in regulations at § 413.153 and in Chapter 2 of the Provider Reimbursement Manual (HCFA Pub. 15–1)).

Comment—A commenter believes that changing policy with respect to payment of a return on equity capital creates an incentive to lease capital equipment rather than purchase it.

Response—We disagree with this comment. We have no evidence that nonproprietary providers (providers that do not receive a return on equity capital) lease capital assets to a greater extent than proprietary providers (providers that receive a return on equity capital). Therefore, placing these two classes of providers on a more equal footing concerning capital payments would not, in our view, cause changes in behavior that have not occurred while previous equity capital policies have been in effect. In any case, the Medicare program will continue to pay an appropriate share of the cost of capital assets, whether purchased or leased, according to the law and regulations.

Comment—A commenter believes that our proposed reductions violate congressional intent as evidenced by legislative history. The commenter stated that Congress—

- Originally established the 150 percent rate level; and
- Was aware of the dichotomy between the rate level for inpatient hospital services and other services and chose to take no action to reduce the "other" rate to the level of inpatient hospital services.

Response—We believe that our proposed reductions in return on equity payment levels are consistent with congressional intent, especially as evidenced by the enactment of section 9107 of Pub. L. 99–272 subsequent to the publication of the proposed rule. As stated above, this section of the law phases our return on equity payments for inpatient hospital services, reduces the return on equity rate for other than inpatient hospital services to 100 percent, and affirms the Secretary's discretionary authority to determine whether to pay return on equity for other than hospital inpatient and SNF services.

Comment—One commenter stated that the payment of a return on equity is necessary to insure proper financing for HHA services requiring capital-related expenditures.

Response—As discussed in greater detail below, the HHA industry is not capital-intensive (capital costs generally being less than three percent of HHA operating costs). Also as discussed below, the expansion in the number of HHAs is well-documented, and we believe that Medicare payment without a return on equity will be adequate to maintain the availability of HHA services to program beneficiaries' as well as to encourage establishment of HHAs in areas where their numbers are insufficient to deal with beneficiaries needs. Also, as indicated above, when a provider finds it necessary and proper to borrow money in connection with capital inprovements for rendering health care services, the program pays its appropriate share of qualified interest payments.

Comment—Commenters stated that the payment of a return on equity is necessary to ensure a profit for investors and that elimination of return on equity will result in non-Medicare payors subsidizing costs of services to Medicare patients.

Response—Medicare's responsibility is to ensure that it pays an appropriate share of a provider's costs of treating Medicare beneficiaries. To the extent that an allowance for return for investors has been desirable in the past to attract capital investment, we have provided for its payment. However, as previously stated, there are other available sources of capitalization, and when providers incur necessary and proper interest expense, the program pays its appropriate share of such interest. For these reasons, we do not expect that other payors will end up subsidizing the care provided to Medicare beneficiaries. Moreover, under the provisions of section 9107 of Pub. L. 99–272, we have clear direction from Congress concerning payment of return on equity capital.

Comment—A commenter stated that the elimination of a return on equity discriminates against proprietary HHAs, and that it further penalizes HHAs that have already been subject to cost caps and reductions.

Response—On the contrary, under the statutory language of section 9107 of Pub. L. 99–272 (for example, the phasing out of return on equity for inpatient hospital services and the reduction of the return on equity rate for other provider services), we are not discriminating against HHAs, or any other type of provider.

II. Elimination of the Exception for Newly Established HHAs From the Cost Limits

A. Background and Proposed Rule

Section 1861(v)(1) of the Act authorizes the Secretary to set prospective limits on the costs that are reimbursed under Medicare. The limits may be applied to the direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider. Regulations implementing this authority are set forth at § 413.30. In addition to establishing limits on provider costs, § 413.30(f) specifies exceptions under which providers may request relief from the cost limits. The exception for a "newly-established HHA" (§ 413.30(f)(7)) defines one of the bases for which an HHA's limits may be adjusted.

Section 413.30(f)(7) enables a newly-established HHA to file for an exception to the cost limits if it can demonstrate that—

- It has provided, under present and previous ownership for a period of less than three full years, home health care services equivalent to those that would have been covered if the agency had a Medicare provider agreement in effect;
- Its variable operating costs were reasonable in relation to its utilization during the fiscal cost reporting period for which the exception is requested; and
- Its fixed operating costs are reasonable in relation to a realistic projection of utilization to be achieved at the end of the provider's second full year of operation in the program; that is, the reporting year containing the 24th month after the start of the provider's first cost reporting period.

When the newly-established HHA exception was initially adopted in 1979, there were approximately 2,500 HHAs participating in the Medicare program. The original intent of this was to encourage home care by neutralizing the effects of cost limits upon new health care agencies. Representatives of HHAs contended that new agencies were financially at risk because they were unable to enter the market with a sufficient patient population to generate the volume of visits required to offset their fixed costs. They maintained that initial years of growth are dependent upon establishing sound referral arrangements.

Since HHAs, unlike inpatient facilities, can enter the market with little invested capital, a new provider exemption under § 413.30(e)(2) such as that granted to new hospitals and SNFs was determined to be inappropriate.

At that time, we concluded that a blanket exemption would have resulted in an unwarranted competitive advantage for new market entrants.

However, to encourage growth of HHAs in underserved areas, a "new HHA" exception was established to grant relief to those new agencies whose higher initial costs of operation can be traced to low utilization associated with entering the health care market without an established referral system. HHAs that have merely changed ownership or have been operating in the health care field providing substantially the same type of services as a participating HHA to private pay patients have not qualified under this section.

Subsequent to the creation of this exception in 1979, the number of participating HHAs had dramatically increased to over 5,900 by the end of 1985. This significant increase is mostly the outgrowth of a legislative change to section 1861(o) of the Act that relaxed the licensure requirements for proprietary HHAs (section 930(n)(2) of the Omnibus Budget Reconciliation Act of 1980 (Pub. L. 96–499)). From July 1, 1981, when the proprietary licensure requirement was deleted, to July 1, 1984, approximately 1,700 new agencies were approved for participation in Medicare. Indeed, the average annual rate of growth of participating HHAs between 1981 and 1984 (14 percent) was twice that experienced between 1979 and 1981 (seven percent). These facts indicate that, as a means of serving to encourage expansion in the HHA industry, the new-HHA exception was less important than the relaxation of licensure requirements.

We believe it desirable for all new agencies to monitor their costs and growth in each discipline, to institute sound management planning and to make prudent management decisions to minimize the disallowance of costs due to cost limitations. The elimination of the "new HHA" exception, as we proposed in the February, 20, 1986 notice of proposed rulemaking, is intended to prevent the sheltering of inefficient providers and to reduce inappropriate payment from the Medicare Trust Fund to these agencies. Continuing to recognize higher fixed costs simply because an HHA is "new" may merely support the ongoing operation of certain HHAs that otherwise are not viable enterprises. Moreover, payments for higher costs based on exceptions granted to new agencies result in increased expenditures, exacerbating the fiscal problems of the Medicare Trust Fund. Therefore, considering the recent increase in the number of HHAs nationwide, and the need to protect the Trust Fund from unnecessary expenditures, we believe continuation of this specific exception would be an imprudent decision.

In addition, as a result of the influx of new agencies, many established providers located in areas where the beneficiary population does not support additional agencies have become more vocal in expressing their belief that they are disadvantaged by the new HHA exception, which they believe subsidizes a newly established agency. They argue that this provision absolves health care providers expanding into the home care market from assuming the normal risk of opening a new business enterprise and diminishes the need for sound management planning. Since many of the costs directly related to initial development are start-up and organizational costs reimbursable under the Medicare program, established agencies contend that the new HHA exception providers a program subsidy for fixed costs where none is warranted. They believe that other costs that are directly related to patient care are controllable through careful management planning.

For all of these reasons, we believe that our original justification for

establishing a distinct exception for new HHAs is no longer valid. Therefore, we are removing § 413.30(f)(7) from the regulations to eliminate this exception. We note that § 413.30(f) contains other exception provisions that would continue to apply to all HHAs (for example, atypical services and extraordinary circumstances).

B. Public Comments

We received 12 timely sets of comments concerning the proposed elimination of the newly-established HHA exception. The commenters were national and state associations, HHAs, associations representing providers of health services, and other related parties. Several of the commenters supported our proposal and made the following statements regarding the new HHA exception:

- The exception has led to the establishment of HHAs without proper financial resources or proper analyses of market demands
- It has led to overutilization of home care services.
- It has resulted in a subsidy to new agencies that has disadvantaged established agencies.
- It has caused an over-proliferation of providers that has resulted in financial harm to the Medicare program, established HHAs, and new HHAs.

Other comments regarding this particular issue and our responses to these comments are discussed below.

Comment—Several commenters stated that the exception for newly-established HHAs should be continued because it takes time to develop the referral base needed to provide an ongoing source of capital. In addition, others stated that this problem is more difficult for HHAs in rural areas and that we should provide a separate exception for these HHAs.

Response—By the end of 1985, 81 percent of all new HHAs being certified for participation in the Medicare program were either hospital-based or proprietary. These HHAs have access to altenative sources of financing that were not available to the nonprofit agencies that dominated the industry prior to 1981. The hospital-based HHAs (40 percent of the new market entrants) enter with an established referral base and can reduce start up costs by utilizing existing staff and facilities. These HHAs also have the financial resources of the hospital to provide the necessary capital. In addition, since capital costs are less than three percent of total operating costs for HHAs, and HHA can enter the program with very little investment needed for physical assets and with sound management and financial planning can manage its costs (for example, adopt flexible staffing patterns and maintain minimal fixed assets) during the start-up period so as not to need a subsidy from the Medicare trust funds.

Finally, § 413.30(f) contains several other exceptions that could be granted to an HHA that incurs reasonable costs in providing patient care services but whose costs still exceed its Medicare cost limits. For example, agencies that incur higher transportation costs because they are serving patients in underserved areas may qualify for an exception under § 413.30(F)(2)—extraordinary circumstances. Accordingly, a new HHA exception is not needed specifically for agencies in underserved areas.

Comment—One commenter stated that if we eliminate the new HHA exception, we should provide for the inclusion of new agency costs in the computation of the HHA cost limits.

Response—The latest schedule of HHA cost limits was published in the **Federal Register** on May 30, 1986 (51 FR 19734). These cost limits were developed using the costs of both *new* and *established* providers. We have no intention of excluding new provider cost data from this process in the future.

Comment—Two commenters stated that HCFA has not presented sufficient data to justify the elimination of the newly-established HHA exception.

Response—As a result of the enactment of Pub. L. 96–499, which relaxed the licensure requirements for proprietary HHAs effective July 1, 1981, the home health industry has undergone many changes. As we stated above, average annual growth in the number of participating agencies between 1981 and 1984 rose to 14 percent, twice that of the seven percent growth experienced between 1979 and 1981. It is apparent that the greater catalyst for expansion of new HHAs has been the relaxation of the licensure requirements and not the new provider exception, which was established in regulations in 1979. Also, as previously stated, this is not a capital-intensive industry and HHAs can control their staffing patterns.

Comment—Several commenters stated that because hospitals reimbursed under the prospective payment system are discharging patients earlier, the need for new agencies is greatly increased.

Response—We disagree. We do not believe that the elimination of the newly-established HHA exception will result in new agencies being deterred from entering the market. The facts demonstrate and several commenters have stated that there is increased demand for home health care services. This demand, plus the current level of reimbursement paid to established agencies, should provide sufficient inducement for HHAs to enter the market.

III. Regulatory Impact Statement and Flexibility Analysis

A. Introduction

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a final regulatory impact analysis for final regulations that are likely to meet criteria for a "major rule". A major rule is one that would result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs of prices for consumers, individual industries, Federal, State, or local government agencies, or any geographical regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We also prepare and publish a final regulatory flexibility analysis for final rules that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that the rule will not have a significant impact on a substantial number of small entities. For purposes of the RFA, we consider all providers to be small entities.

The provisions contained in this rule are not expected to result in an annual economic impact of $100 million or more, therefore, this is not a major rule. A significant number of small entities, however, are expected to be substantially affected by this rule. In addition, while the provisions of section 1886(g)(2) of the Act (which mandate the phase-out of payment for return on equity for inpatient hospital services) were effective with cost reporting periods beginning on or after October 1, 1986, section 9321(c) of Pub. L. 99–509 precludes issuance of a final rule dealing with capital-related costs before September 1, 1987. Consequently, we will publish necessary conforming changes to the regulations at a later date. Nonetheless, we believe it appropriate to discuss the impact of phasing-out these return on equity payments for inpatient hospital services in this document. Also, we believe this to be an opportune time to discuss the effects of phasing-out return on equity payments for hospital inpatient services because of the interactive effects this

may have for investment decisions and the demand for provider services in other sections of the industry. For example, the phase-out may result in a shift of investments and increase demand for outpatient services and other post-acute care treatment modalities and providers of these services. Thus, we are providing voluntarily a regulatory impact analysis that meets the requirements of the Executive Order as well as providing an analysis that is consistent with the RFA.

This rule is not expected to result in payment reductions to providers or physicians of $50 million or more during FY 1988. Therefore, it can be published at this time without violating section 9321(d) of Pub. L. 99–509, which prohibits the Secretary from issuing any final rules or notices between October 21, 1986 and September 1, 1987 that would result in payment reductions to hospitals or physicians of $50 million or more for FY 1988.

B. Return on Equity

1. Entities Affected

As of June 1986, there were about 10,300 proprietary providers participating in the Medicare program. This represents approximately 43 percent of all providers participating in the Medicare program. Proprietary hospitals account for about four percent of proprietary providers and for about 16 percent of all participating hospitals. Typically, proprietary hospitals have under 200 beds, and are located predominantly in the southern and western parts of the country. By contrast, proprietary nursing homes (SNFs) account for about 69 percent of all participating SFNs and, are distributed geographically roughly in the same proportion as not-for-profit and government controlled SNFs. Also, many proprietary hospitals and nursing homes are now chain controlled facilities.

Among other provider types, only OPTs have a sizable proportion of proprietary facilities. Proprietry OPTs represent about 71 percent of all participating clinics and are, for the most part, provider based. Proprietary HHAs comprise only 32 percent of all HHAs participating in the Medicare program.

Because §§ 447.253(b)(2) and 447.321, limit Federal financial participation (FFP) for certain categories of providers to an aggregate upper limit determined by the amount payable under Medicare principles under comparable circumstances, some providers that participate in the Medicaid program may also be affected by this regulation. A number of States adopt Medicare principles directly for Medicaid payment. Most Medicare providers also participate in Medicaid and thus, as a result of these regulations, could have payment for return on equity reduced under both programs.

In addition to providers that participate in both programs, there are about 2,000 SNFs and two categories of providers that participate only in the Medicaid program: intermediate care facilities (ICFs) and intermediate care facilities for the mentally retarded (ICFs/MR). As of June 1986, there were about 1,230 proprietary SNFs, 4,300 proprietary ICFs and 711 proprietary ICFs/MR participating only in Medicaid State programs. Proprietary ICFs and ICFs/MR represent approximately 76 percent and 22 percent respectively of all ICFs and ICFs/MR treating Medicaid recipients. As explained later in this impact analysis, we cannot identify which Medicaid providers will be affected by these regulations.

2. Expected Impact

We are reducing return on equity payments to SNFs, hospital outpatient services and other nonhospital and non-SNF providers in accordance with sections 1861(v)(1)(B) and (P) of the Act, as enacted and amended by section 9107(b) of Pub. L. 99–272, to be effective with cost reporting periods beginning on or after October 1, 1985. As a result, we expect to realize Medicare program savings of approximately $15 million for FY 1986. These savings will be achieved through the following reductions to providers:

Pub. L. 99–272 Savings in FY 1986 (rounded to the nearest $5 million).

Hospital Outpatient	$5
SNFs	5
HHAs and others	5

Section 1886(g)(2) of the Act, as amended by section 9107(a) of Pub. L. 99–272 requires us to phase out payment for return on equity capital for inpatient hospital services over three fiscal years beginning in FY 1987. In addition, on our own initiative we are eliminating return on equity payments to HHAs and other nonhospital and non-SNF providers to be effective 30 days following publication of this document. The following table shows the expected Medicare program savings from these reductions including continuation of payments for return on equity to SNFs and hospital outpatient services equal to the average interest rate earned on Part A Trust Fund obligations.

ELIMINATION OF ROE FOR HOSPITAL INPATIENT SERVICES, FOR NONHOSPITAL, NON-SNF PROVIDERS, AND REDUCTION OF ROE TO SNFS AND FOR HOSPITAL OUTPATIENT SERVICES

[Savings (in millions)*]

Provider	FY 1987	FY 1988	FY 1989	FY 1990	FY 1991
Hospital Inpatient	$40	$110	$160	$210	$240
Hospital Outpatient	10	15	20	20	20
SNF	15	15	15	15	15
HHA and others	10	10	10	10	10

* Inpatient hospital-related estimates are rounded to the nearest $10 million; hospital outpatient, SNF and HHA estimates are rounded to the nearest $5 million.

The principal factors affecting year-to-year changes in projected savings are projected utilization and the expected interest rates on Part A Trust Fund bonds. For example, SNF Medicare utilization is not expected to increase significantly over the next five fiscal years, while interest rates are projected to decrease, thus resulting in a fairly flat annual savings rate. By contrast, hospital outpatient Medicare utilization is expected to increase significantly over the next five fiscal years causing a growth in savings over time. Medicare utilization of HHA and other provider services is expected to increase somewhat, resulting in a relatively constant year-to-year savings rate after the expected decline in interest rates is taken into account. Savings attributable to the elimination of return on equity payments for hospital inpatient services will continue to grow through FY 1991 because payments for return on equity to some hospitals for inpatient services will not be completely eliminated until FY 1990.

3. General Considerations

It is impossible to predict with precision the economic impact of this regulation on provider profit margins and behavior, both because of limited data and our inability to model the

pertinent variables in a way that would permit us to estimate the financial effects of these regulations on different classes of providers. Even with a suitable model and the data for determining the impact, it would be difficult to predict how providers will respond. Their responses will be conditioned by a set of factors influencing investors' or stockholders' investment decisions for which we have no data.

It is often claimed that payment reductions may have the effect of limiting beneficiary access to care. This may occur either because providers elect to furnish fewer services to Medicare beneficiaries, or because they cease operations in response to reduced payments. However, the relationship between Medicare payments and access is complex and is dependent on each provider's response to the total payment amount a provider receives for treating Medicare patients. Also, provider actions that may restrict access would be conditioned by the availability of alternate sources of revenue or (particularly in the case of proprietary providers) other investment opportunities open to owners or stockholders. Clearly, the level of Medicare payment plays a part in investment decisions, but we believe in most cases it is but one of several factors that investors must weigh in responding to this final rule. Generally, investors will withdraw their equity holdings from an enterprise if the overall economic rate of return of the enterprise falls below the rate of return investors demand from an investment in order to maintain their financial interest in the investment. The economic rate of return on an investment is usually defined as the total cash flow expected to be received over the life of the investment, discounted by a factor reflecting the required rate of return divided by the total cash amount expected to be paid out over the life of the investment, also discounted by the required rate of return.[1]

The variables affecting the rate of return required to maintain an investor's financial interest in an investment include: the investor's overall investment portfolio, the investor's marginal tax rate, the rate of return on alternative investments, the level of risk associated with each investment and the amount of risk the investor is willing to assume, and nonfinancial considerations. (An example of the latter may be an investor's concern with the welfare of the community as well as with optimizing the rate of return.) All of these factors affect investment decisions and are expressed quantitatively as the discount factor in the formula described above for determining the rate of return on an investment.

4. Hospitals

We do not believe that the phasing out and eventual elimination of payments for return on equity for inpatient services will, by itself, after proprietary hospitals treatment of Medicare beneficiaries. As shown in our discussion of hospital "profit" margins in the final rule published in the **Federal Register** (51 FR 31454) on September 3, 1986, many hospitals have achieved second "profits" over the past two years. For FY 1987, the projected reduction in payment for return on equity for both inpatient and outpatient services represents about one percent of total payments to proprietary hospitals. The combination of high profits, the small reduction in payments and declining occupancy (which has resulted in increased competition among hospitals to fill the available beds) should work to preserve beneficiary access to hospital care.

As noted above, we expect Medicare utilization of hospital outpatient services to increase over the coming years as hospitals continue to transfer patient care services from the inpatient setting. This transfer is partially in response to technological innovations that have enabled providers to perform procedures on an ambulatory basis where, previously, inpatient stays were required. In addition to technological advances, Professional Review Organization preadmission review of Medicare inpatient admissions and the incentives of the prospective payment system encourage the movement of services into the outpatient setting. We do not believe that the reduction of the return on equity for hospital outpatient services will affect this trend.

5. Skilled Nursing Facilities

There are very limited data on the unmet Medicare demand for SNF level beds. Using the number of hospital "back-up" days as a proxy measure of the demand for SNF of ICF beds, the recent report to Congress on the SNF benefit under Medicare [2] cities estimates of beween 0.7 million and 7.2 million "back-up" days in FY 1980. "Back-up" days are the number of days patients must remain in the hospital because there are no suitable nursing home beds to which they can be transferred. We have referred to these days in other documents as either "inappropriate level of care" days (51 FR 4728), or as "alternate placement" days (49 FR 234). Although the report cautions against relying completely upon these data—noting that the data may be more expressive of Medicaid "back-up" days than of Medicare—the authors do suggest that Medicare demand for nursing home beds may exceed available supply in some areas.

Access to nursing home beds depends heavily on local market conditions. Such factors as the demand from nongovernment insured patients who are able to pay the asking price for nursing beds, State Medicaid reimbursement policies, and the availability of other health delivery modalities that could substitute for nursing home care (for example, home health services) will vary from one locality to another. The majority of patients in SNFs are Medicaid and private pay. In communities where the demand for SNF beds is high for these patients, reducing payments for return on equity may decrease the supply of beds available to Medicare beneficiaries. At the same time, the Medicare prospective payment system creates financial pressures for hospitals and physicians to improve their practice patterns and reduce the time patients remain in the hospital to the minimum number of days that are truly medically necessary for proper care. These pressure may increase the demand for SNF beds for Medicare patients. In communities where the demand for SNF beds is already high because of these various pressures, the effect of reducing payments for return on equity may serve to further tighten demand for SNF beds by reducing the supply of beds available to Medicare beneficiaries. Depending on local market conditions. SNF operators may elect to no longer participate in the Medicare and/or Medicaid programs, thereby making more beds available for higher paying privately insured or self-pay patients; or owners may decide to reduce their investment in new bed construction or reduce the current level

[1] Total cash received is defined as total revenues including capital related payments and return on equity payments. Total cash outlays includes only actual cash expenditures for capital, interest, dividends, taxes and general operating costs. In this context, depreciation expense serves only to reduce the provider's tax liability (thereby reducing cash outlays) but is not, itself, a cash outlay and is therefore not included in computing the economic rate of return.

[2] *Report to Congress: Study of the Skilled Nursing Facility Benefit Under Medicare*, Health Care Financing Administration, Department of Health and Human Services, Office of Policy Analysis: January 1985, page 71.

of beds available, thus driving up the cost of SNF care for private care patients as well as for Medicare and Medicaid patients.

6. Home Health Agencies and Other Proprietary Providers

Because of the rapid growth in the number of HHAs, which results, in part, from the small capital investment required to set up an agency, we doubt that elimination of return or equity payments will have a significant effect on the supply of these services. More lenient licensure requirements and the trend toward substitution on nonhospital services for services that had traditionally been provided on a hospital inpatient basis all have led to a rapid growth in this segment of the industry. It seems to us highly unlikely that the comparatively small reduction in payments that HHAs would experience (primarily because of the small amount of capital involved) will alter this continued growth pattern.

While we posses little data on which to determine the effects of eliminating return on equity payments for other non-hospital and non-nursing home providers, we believe that many of these providers have capitalization structures similar to HHAs, and therefore, the impact of this regulation will be minimal. Most nonhospital providers have relatively small capital investments and, thus, their return on equity payments represent a small percentage of their total revenue. Beneficiary access to these provider services should not be impaired by this regulation.

7. Effect on Medicaid Providers

As discussed earlier, under §§ 447.253(b)(2) and 447.321, FFP is limited (with respect to certain categories of providers) to an aggregate upper limit determined by the amount Medicare would pay under comparable circumstances. The provision to reduce payments for return on equity to SNFs and for outpatient hospital services and to eliminate return on equity payments for other providers may affect the upper limit allowable for FFP under Medicaid.

We stated above that we cannot determine precisely how this regulation will affect Medicare providers because of a lack of data and the impossibility of calculating all the variables involved. Attempting to estimate the effect this regulation will have on Medicaid providers is even more difficult because the limit on FFP applies to the aggregate payment amount and not to the specific amount a State may reimburse for return on equity (if, in fact, the State reimburses for this item). As a result, a State may not have to modify its payments for return on equity. It could meet the upper limit requirement by modifying the payment methodology in other ways, or if the State's projected Medicaid payments are below the upper limit, it may not need to modify its payment methodology at all. An affected State may also choose to ignore the upper limit and continue to pay providers for return on equity without FFP. Because we cannot predict how this regulation will affect a State's upper payment limit or know how a State will respond to the change in the upper limit, we are unable to provide a specific analysis of the effects of this regulation on Medicaid providers.

In those States that elect to reduce provider payment in response to a drop in the FFP upper limit, we believe that Medicaid providers would respond in similar ways to Medicare providers. We believe that because of excess bed capacity and the efficiencies achieved in recent years, hospitals will not limit access to Medicaid patients. Long-term care facilities, however, may seek to limit access where the demand from patients covered under other types of third party coverage or private pay is high. Responses to limited access by nonhospital or non-long-term care providers will again depend on local economic and market factors.

C. Elimination of the Exception for Newly-Established HHAs from the Cost Limits

As stated previously in this preamble, the initial reason for providing the exception to the cost limits for new HHAs was to minimize financial barriers to HHAs wanting to enter Medicare markets for the first time, especially in underserved areas. However, because of the rapid increase in the number of new HHAs that have entered the market following the adoption of more lenient licensure requirements for proprietary HHAs, this rationale no longer appears to be valid.

Evidence acquired during the past few years concerning the changing composition of HHAs suggests that financing may no longer be a significant obstacle to entering the market place. In FY 1980 (the first year of the "new HHA" exception), slightly more than one-half (57.7 percent) of all the new HHAs certified under Medicare were either hospital-based or proprietary agencies. Hospital-based and proprietary HHAs at that time represented less than 25 percent of the total Medicare participating HHAs. In FY 1981, the percentage of new hospital-based and proprietary agencies entering the market increased to 61.7 percent. By the end of FY 1985, slightly more than 80 percent (81.1 percent) of all new agencies being certified for participation in the Medicare program were either hospital-based or proprietary. We expect this trend to continue for the foreseeable future.

The fact that eight out of ten new agencies entering the market are either hospital-based or proprietary agencies strongly suggests that these agencies have access to alternative sources of financing that are not available to nonprofit agencies, which dominated the home health industry prior to 1981. Moreover, hosptial-based HHAs (which comprise nearly 40 percent of the new market entrants) enter with an established market, thereby further minimizing the need for the financial relief intended by the new HHA exception. Also, hospital-based programs can significantly reduce their start-up costs for service delivery by utilizing existing staff and facilities to perform patient care services.

While hospital-based and proprietary agencies may have access to financial resources and patient populations that nonprofit and free-standing agencies may not have, we believe that the service delivery mode and the relatively small capital investment required to start an agency make it quite easy for new free-standing and nonprofit agencies to begin operations without the aid of a new HHA exception. On average, capital-related costs for an HHA represent less than three percent of its total operating costs. By comparison, capital-related costs for the average SNF will be three times as much as for an HHA. Also, the nature of home health services enables HHAs to adopt extremely flexible staffing patterns and to maintain minimal fixed assets, thereby giving them a degree of control over their costs during the initial years of service that hospitals and SNFs do not have.

We are presently unable to quantify the savings that may result from the proposed elimination of the new HHA exception. Historically, exception amounts requested by new providers have ranged from less than $1,000 to over $100,000 with an average request of $20,000. The amount approved, however, frequently is lower than the amount requested, sometimes by as much as 50 percent. Yet, because most exceptions that we approve are interim approvals, pending audit, we do not know what the final exception amounts will be. Thus far, we have very few "final" exceptions. In addition, the rapid growth of the HHA industry makes prediction of number of future new HHA exceptions

very uncertain. Also, the total number of HHAs affected by elimination of the exception is likely to be small, since all agencies will continue to be eligible to apply for other exceptions under § 413.30(f).

Based on program experience, we expect the amount of monies involved in the elimination of this exception to be insignificant in relation to overall average Medicare revenues to HHAs.

D. Response to Comments

Comment: A commenter objected to our use of a chart in the initial impact analysis showing historical Medicare payment rates for return on equity capital compared to rates of return earned by public utilities and after tax profits for major industries. The commenter believes that the chart was misleading and based on incomplete data. Comparisons of pre-tax Medicare payment rates for return on equity with after-tax private industry profit margins are unfair, and the data upon the which comparisons are based are out of date.

Response: We agree that the chart used in the initial impact analysis in support of our decision to reduce return on equity payments was inappropriate. In this final impact analysis we make no reference to the chart.

Comment: A commenter states that our initial impact analysis underestimated the potential effects on SNFs of reducing payments on return on equity because we failed to consider the link between Medicare and Medicaid payment principles.

Response: We agree that we failed to discuss the possible consequences of the proposed rule on Medicaid payments to providers. In our final impact analysis, we do discuss possible effects this regulation may have on Medicaid payments to providers. However, because of the different payment methodologies States have adopted and the lack of data with respect to the aggregate upper limits on Medicaid payments in each State, we cannot be certain how this regulation will affect Medicaid payments.

Comment: A commenter complained that we minimized the potential effects of the proposed rule on SNFs by arguing that chain-operated and hospital-based SNFs have access to alternate funds and markets that could mitigate the reduction in payments for return on equity. The commenter states that the area where its facility is located does not permit chain-operated facilities.

Response: We agree with the commenter that our analysis did not address the effects of the proposed regulation on independent, free-standing facilities. In the final impact analysis, we stated that there is uncertainty in this area owing to the number of variables involved in any investment decision and the lack of data. However, we do speculate that, in areas where the demand for SNF beds is high from non-Medicare patients, our regulation may cause nursing homes to limit the number of beds made available to Medicare patients.

IV. Other Required Information

A. Applicability

The change concerning the interim reduction of the rate of return on equity capital payment for all nonhospital and non-SNF properitary provider services applies to cost reporting periods beginning on or after October 1, 1985 and before the effective date of this final rule.

The change concerning the rate of return on equity capital for services provided by properietary SNFs and for outpatient hospital services is applicable to cost reporting periods beginning on or after October 1, 1985.

All other changes are applicable to cost reporting periods beginning on or after July 6, 1987.

B. Paperwork Reduction Act

These changes do not impose information collection requirements; consequently, they need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

C. Public Comment Period and Waiver of Proposed Rulemaking

As we have discussed at length in this preamble, all of the changes in this final rule affecting Medicare rules on the allowance for a return on equity capital were discribed for public comment in the proposed rule or mandated by section 9107 of Pub. L. 99–272, or both.

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** for substantive changes in regulations such as reduction of the rate for all proprietary providers other than hospitals and SNFs authorized under section 9107(b) of Pub. L. 99–272. However, we may waive that procedure if we find good cause that proposed rulemaking is impractical, unnecessary, or contrary to the public interest.

Section 9115(b) of Pub. L. 99–272 provides that we may issue the regulations that implement section 9107 of Pub. L. 99–272 on an interim or other basis as may be necessary. Our reduction of the rate of return on equity capital payments for all proprietary providers other than hospitals and SNFs, for cost reporting periods beginning on or after October 1, 1985, but before the effective date of this final rule, is mandated by Congress under the provisions of section 9107(b)(1) of Pub. L. 99–272. Therefore, in the interest of updating our regulations concerning all aspects of the allowance for return on equity capital at the same time (other than for inpatient hospital services), we believe that notice of proposed rulemaking for the provisions of this final rule that implement section 9107(b) of Pub. L. 99–272 is unnecessary, and we find good cause to waive the procedure and to issue these provisions as final. However, since this change in regulations has not previously been subject to public comment, we are providing a 60-day comment period.

Since our decision to reduce the rate of return on equity capital payments for outpatient hospital services from a level of 150 percent to 100 percent was part of our proposed rule, and conforms to the provisions of section 9107(b) of Pub. L. 99–272, a new comment period for this provisions is unnecessary.

The provision of this final rule concerning reduction of the rate of return on equity capital for SNFs is mandated by section 9107(b)(2) of Pub. L. 99–272 and, further, is exempt from proposed rulemaking under section 9115(b) of Pub. L. 99–272. In addition, this provision was part of our proposed rule. Therefore, a new comment period for this provision would not be useful.

Finally, our decision concerning elimination of the allowance for a return of equity for all nonhospital and non-SNF providers was part of our proposed rule. The provisions of this rule implementing that decision are final without a further public comment period.

To summarize, we are providing a 60-day comment period on those provisions of this final rule that reduce the return on equity capital for all proprietary providers other than hospitals and SNFs, for cost reporting periods beginning on or after October 1, 1985, but before the effective date of this final rule (§ 413.157(b)(4)(i)).

Because of the large number of items of correspondence we normally receive on regulations, we cannot acknowledge or respond to them individually. However, we will consider all comments concerning the issue noted directly above that are received by the date and time specified in the "Dates" section of this preamble. If we decide that further rulemaking is necessary concerning this issue we will publish a final rule and respond to the comments in the preamble of that rule.

List of Subjects in 42 CFR Part 413

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 413, is amended as set forth below:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

A. The authority citation for Part 413 continues to read as follows:

Authority: Secs. 1102, 1122, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, and 1886 of the Social Security Act as amended (42 U.S.C. 1302, 1320a–1, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, and 1395ww).

B. In Subpart A, § 413.5, the introductory language of paragraph (c) and paragraph (e) are revised to read as follows:

Subpart A—Introduction and General Rules

§ 413.5 Cost reimbursement; general.

* * * * *

(c) As formulated herein, the principles give recognition to such factors as depreciation, interests, bad debts, educational costs, compensation of owners, and an allowance for a reasonable return on equity capital of proprietary facilities. However, costs such as depreciation, interest on borrowed funds, a return on equity capital (in the case of certain properitary providers), and other costs related to certain capital expenditures are subject to the provisions of § 413.161, "Nonallowable costs related to certain capital expenditures." With respect to allowable costs some items of inclusion and exclusion are:

* * * * *

(e) A return on the equity capital of proprietary facilities, as described in § 413.157, is an allowance in addition to the reasonable cost of covered services furnished to beneficiaries.

* * * * *

Subpart C—Limits on Cost Reimbursement

§ 413.30 [Amended]

C. In Subpart C, § 413.30 is amended by removing and reserving paragraph (f)(7).

D. Subpart G is amended to read as follows:

Subpart G—Capital-Related Costs

1. Section 413.130 is amended by republishing the introductory language of paragraph (a) and by revising paragraph (a)(8) to read as follows:

§ 413.130 Introduction to capital-related costs.

(a) *General rule.* Capital-related costs and an allowance for return on equity are limited to the following:

* * * * *

(8) For certain proprietary providers, return on equity capital, as determined under § 413.157.

* * * * *

2. Section 413.157 is amended by revising paragraph (a); redesignating the current paragraph (b) as paragraph (c); adding a new paragraph (b); and revising the redesignated paragraph (c)(1) to read as follows:

§ 413.157 Return on equity capital of proprietary providers.

(a) *Definitions*

For purposes of this section—

"Proprietary provider" means a provider that is organized and operated with the expectation of earning a profit for its owners (as distinguished from a provider that is organized and operated on a nonprofit basis). Proprietary providers may be sole proprietorships, partnerships, or corporations. Effective for cost reporting periods beginning on or after July 6, 1987, the term applies only to proprietary hospitals and SNFs.

(b) *General rule.* A reasonable return on equity capital invested and used in the provision of patient care is paid as an allowance in addition to the reasonable cost of covered services furnished to beneficiaries by proprietar providers.

(1) *Rate of return applicable to proprietary providers for cost reporting periods beginning before July 6, 1987.* Except as provided in paragraphs (b)(2), (b)(3), and (b)(4) of this section, the amount allowable on an annual basis, for cost reporting periods beginning before July 6, 1987, is determined by multiplying the provider's equity capital by a percentage equal to one and one-half times the average of the rates of interest on special issues of public debt obligations issued for purchase by the Medicare Part A Trust Fund for each of the months during the provider's reporting period or portion thereof covered under the program.

(2) [Reserved]

(3) *Rate of return for proprietary SNFs and for outpatient hospital services.* For cost reporting periods beginning on or after October 1, 1985, the rate used in determining the return for SNFs and for outpatient hospital services is a percentage equal to the average of the rates of interest described in paragraph (b)(1) of this section.

(4) *Rate of return for proprietary service of all nonhospital and non-SNF providers.*

(i) For cost reporting periods beginning on or after October 1, 1985, but before July 6, 1987, the rate used in determining the return for services of all nonhospital and non-SNF providers is a percentage equal to the average of the rates of interest described in paragraph (b)(1) of this section.

(ii) For cost reporting periods beginning on or after July 6, 1987, there is no allowance for return on equity capital for nonhospital and non-SNF providers.

(c) *Application*—(1) *Computation of equity capital.* For purposes of computing the allowable return, the provider's equity capital means—

(i) The provider's investment in plant, property, and equipment related to patient care (net of depreciation) and funds deposited by a provider who leases plant, property, or equipment related to patient care and is required by the terms of the lease to deposit such funds (net of noncurrent debt related to such investment or deposited funds); and

(ii) Net working capital maintained for necessary and proper operation of patient care activities. However, debt representing loans from partners, stockholders, or related organizations on which interest payments would be allowable as costs but for the provisions of § 413.153(b)(3)(ii), is not subtracted in computing the amount of equity capital in order that the proceeds from such loans be treated as part of the provider's equity capital. In computing the amount of equity capital upon which a return is allowable, investment in facilities in recognized on the basis of the historical cost or other basis, used for depreciation

and other purposes under Part A of Medicare.

* * * * *

§ 413.161 [Amended]

3. In § 413.161(a), the first sentence, the word "certain" is inserted before the phrase "proprietary providers".

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; and No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: March 16, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: May 1, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87–12602 Filed 6–3–87; 8: 45 am]

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federal register

Thursday
June 4, 1987

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700 and 870

Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program; Two-Acre Exemption Repeal; Notice of Suspension

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700 and 870

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Two-Acre Exemption Repeal

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

ACTION: Notice of suspension.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is suspending certain portions of its permanent program regulations. OSMRE is taking these actions to conform its regulatory program to recently enacted legislation repealing the exemption previously provided in section 528(2) of the Surface Mining Control and Reclamation Act of 1977 for coal extraction affecting two acres or less. The suspension is not intended to affect any pending or future enforcement action against persons who incorrectly asserted that exemption when it was in effect.

EFFECTIVE DATE: June 6, 1987.

FOR FURTHER INFORMATION CONTACT: Arthur Abbs, Division of Regulatory Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–343–5361 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Background

Section 528(2) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (SMCRA), exempted from the requirements of SMCRA "the extraction of coal for commercial purposes where the surface mining operation affects two acres or less." Therefore, operators of surface coal mining operations affecting two acres or less were not required to comply with the permitting, land reclamation or environmental performance requirements imposed on larger operations under SMCRA. Regulations implementing this provision (30 CFR 700.11(b)) were originally published on March 13, 1979 (44 FR 15311). This regulation has a complicated history which is set forth fully in the **Federal Register** notice of January 4, 1982 (47 FR 41) and subsequent rulemaking at 47 FR 33424 (August 2, 1982).

The regulations at 30 CFR Part 870 implement the reclamation fee collection program of Title IV of SMCRA and exempt the extraction of coal for commercial purposes by surface coal mining operations which affect two acres or less from the requirements of that Part (30 CFR 870.11(b)). Those regulations were originally published on December 13, 1977 (42 FR 62713) as Part 837, were later renumbered as Part 870, and revised on June 30, 1982 (47 FR 28574).

On May 7, 1987, the President signed Pub. L. 100–34 which directly affects the regulation of two-acre sites. Title II of the legislation amends section 528(2) of SMCRA by repealing the exemption previously provided for coal extraction for commercial purposes from sites affecting two acres or less. The amendment provides effective dates for new two-acre surface coal mining operations and existing two-acre operations. Subsection 201(b) provides that the repeal of the two-acre exemption is effective 30 days after enactment of Pub. L. 100–34 for surface coal mining operations commencing after that date. This effective date is June 6, 1987. Subsection 201(c) provides that the repeal is effective 6 months after enactment for lawful operations commencing prior to June 6, 1987. This effective date is November 8, 1987. The grace period for existing operations will allow ongoing operations a reasonable amount of time to complete coal extraction or to apply for other permits. Thus, the requirements of SMCRA will apply to all surface coal mining operations regardless of size, unless exempt under some other provision of SMCRA. Subsection 201(d) of the legislation preempts any inconsistent State law or regulation which was previously allowed pursuant to that exemption.

Reclamation under State law may continue after November 8, 1987. As discussed in the House of Representatives Report, "Any reclamation requirements and enforcement powers which states have under their existing laws and regulations, with regard to existing two-acre sites where coal extraction ceases prior to the effective date in subsection 201(c), are not considered as inconsistent with subsection 201(d). Thus, Congress intends that the states continue to use their enforcement and other authorities to ensure that the reclamation required prior to this Act at such sites is accomplished, even after the effective date in subsection 201(c)." (H.R. Rep. No. 59, 100th Cong., 1st Sess. 5, April 21, 1987)

Although this suspension notice affects the Code of Federal Regulations, this notice is an interpretive statement which describes how the Secretary is already implementing Pub. L. 100–34. Even in the absence of this notice, the actions of the Secretary and other affected persons must be consistent with that legislation. Suspension of the rules to conform to the provisions of section 201 of Pub. L. 100–34 is not intended to affect the applicability of the rules to pending or future enforcement actions regarding application of the two-acre exemption during the time when the exemption was in effect.

An explanation of the regulations to be suspended is provided below. By separate rulemaking, OSMRE intends to propose revisions to the suspended rules as necessary, consistent with the new law.

Impact on State Regulatory Programs

Section 528(2) of SMCRA exempted from the requirements of SMCRA the extraction of coal for commercial purposes which affected two acres or less. Pursuant to that exemption, States were free to adopt or continue regulatory schemes for these smaller sites, or to adopt procedures no less effective than the Federal regulatory program for making a determination that an operation was exempt.

Pub. L. 100–34 preempts any State law or regulation which permits surface coal mining operations affecting two acres or less without satisfying the requirements of SMCRA. The legislation invalidates applicable State laws or regulations as of June 6, 1987, insofar as they would authorize persons to commence surface coal mining operations of two acres or less without complying with SMCRA and the approved regulatory program. Operations which commence mining under the exemption before June 6, 1987, will be allowed to continue surface coal mining operations until November 8, 1987. On November 8, 1987, all surface coal mining operations previously exempt under section 528(2) will no longer be exempt. Thus, as of November 8, 1987, surface coal mining operations which are not otherwise exempt under SMCRA may not be conducted without an approved permit under the applicable regulatory program.

With regard to existing exempt operations which cease extracting coal prior to November 8, 1987, the new legislation does not preempt State laws or regulations concerning reclamation activities on the existing sites and does not preempt State enforcement provisions necessary to ensure that

reclamation work required under State law is completed.

Effect on Federal Program States and on Indian Lands

Suspension of § 700.11 applies through cross-referencing to those States with Federal programs. This includes Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. The suspension of § 700.11 also applies to Indian lands under the Federal program for Indian lands at 30 CFR Part 750. Suspension of § 870.11 applies to all surface coal mining operations which are subject to SMCRA, including those in Federal program States and on Indian lands under the Federal program for Indian lands.

II. Discussion of Rules Suspended

1. Section 700.11(b) Two-acre exemption

General applicability of OSMRE's regulatory program is established at 30 CFR 700.11. Section 700.11(b) provides that the requirements of 30 CFR Chapter VII do not apply to the extraction of coal for commercial purposes where the coal mining and reclamation operation (together with any related operation) has or will have an affected area of two acres or less. This section includes criteria for determining how to treat haul or access roads used by two or more operations and criteria for determining whether two or more operations are related.

In conformance with Pub. L. 100–34, OSMRE is suspending § 700.11(b) insofar as it excepts from the applicability of OSMRE's regulatory program in 30 CFR Chapter VII any surface coal mining operations commencing on or after June 6, 1987. This section is also suspended insofar as it allows any surface coal mining operations to be conducted on or after November 8, 1987, without first obtaining a valid permit issued pursuant to SMCRA.

2. Section 870.11(b) Abandoned mine reclamation fund, fee collection

Part 870 sets out requirements and procedures for coal production reporting and the collection of fees for the Abandoned Mine Reclamation Fund. The extraction of coal for commercial purposes by a surface coal mining operation which affects two acres or less during the life of the mine is exempted from the requirements of Part 870 by § 870.11(b).

In conformance with Pub. L. 100–34, OSMRE is suspending § 870.11(b) insofar as it exempts from the requirements of Part 870: (1) Any surface coal mining operations affecting two acres or less commencing on or after June 6, 1987; and (2) any surface coal mining operation affecting two acres or less conducted on or after November 8, 1987. Thus, operators of such operations will be subject to the reclamation fee payment and reporting requirements of 30 CFR Part 870 and Title IV of SMCRA.

III. Procedural Matters

Administrative Procedure Act

Proceeding immediately with this notice complies with applicable provisions of 5 U.S.C. 553 (b) and (d) because (1) as stated earlier, this is an interpretative document describing the effect of Pub. L. 100–34 upon the Secretary's regulatory programs; and (2) good cause exists to do so. In this context, the public should be informed before the effective date of Pub. L. 100–34 of its effect on the Secretary's rules.

Executive Order 12291 and Regulatory Flexibility Act

The Department of the Interior has determined that this notice is not a major rule under E.O. 12291 and certifies that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The economic effects of the suspensions are estimated to be minor and no incremental economic effects are anticipated as a result of the suspensions.

National Environmental Policy Act

OSMRE has prepared an environmental assessment (EA) and has made a finding that these suspensions would not have a significant impact on the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). The EA and finding of no significant impact are on file in the OSMRE Administrative Record at the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1100 L St., NW., Room 5131, Washington, DC 20240.

List of Subjects

30 CFR Part 700

Administrative practice and procedure, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 870

Reporting and recordkeeping requirements, Surface mining, Underground mining.

For the reasons set out in this preamble, 30 CFR Parts 700 and 870 are amended as follows:

Dated: May 29, 1987.

J. Steven Griles,

Assistant Secretary for Land and Minerals Management.

PART 700—GENERAL

1. The authority citation for Part 700 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended; and Pub. L. 100–34.

§ 700.11 [Amended]

2. Paragraph (b) of § 700.11 is suspended insofar as it excepts from the applicability of 30 CFR Chapter VII: (1) Any surface coal mining operations commencing on or after June 6, 1987; and (2) any surface coal mining operations conducted on or after November 8, 1987.

PART 870—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING

3. The authority citation for Part 870 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended; and Pub. L. 100–34.

§ 870.11 [Amended]

4. Paragraph (b) of § 870.11 is suspended insofar as it excepts from the applicability of 30 CFR Part 870: (1) Any surface coal mining operations commencing on or after June 6, 1987; and (2) any surface coal mining operations conducted on or after November 8, 1987.

[FR Doc. 87–12695 Filed 6–3–87; 8:45 am]

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federal register

Thursday
June 4, 1987

Part VI

Department of Agriculture

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final Rule.

SUMMARY: This final rule implements in the Special Supplemental Food Program for Women, Infants and Children (WIC) the nondiscretionary mandates of the School Lunch and Child Nutrition Amendments of 1986, as included in Pub. L. 99–500 and 99–591, Title III, and the Higher Education Amendments of 1986, Pub. L. 99–498. The major provisions in the final rule include: (1) Prohibiting the collection of State or local sales tax on WIC food purchases; (2) requiring the targeting of benefits to persons most in need, specifically to pregnant women; (3) defining allowable food costs to include the cost of warehouse facilities; (4) excluding as income in determining WIC eligibility certain Federal grants and scholarships received by individuals under the Higher Education Act of 1965; and, allowing State agencies the option to carry over not more than one percent of their food and administrative funds allocations for a fiscal year for costs incurred in the next fiscal year, without affecting the next year's allocation, *or* to expand not more than one percent of their WIC food funds allocation for a fiscal year for expenses incurred for food during the preceding fiscal year; and, (6) deleting the requirement that State agencies conduct public hearings on their State plans and replacing it with a general requirement that State agencies establish procedures whereby the general public has an opportunity to comment on the development of the State plans.

EFFECTIVE DATES: The provisions in this rule are effective June 4, 1987, except for six provisions for which the following effective or implementation dates are established by law:

Section	Provision and number in preamble	Effective date
a. Section 246.3(d)	Sales tax (item #1)	Oct. 17, 1986 (implementation beginning with the fiscal year that commences after the end of the first regular session of the State legislature following Oct. 18, 1986).
b. Section 246.4(a)(8), (a)(18) and (b)	State plan (item #2)	June 4, 1987 (Applies to the 1987 State Plans).
c. Section 246.7(c)(2) (iv)	Income exclusion (item #3)	Oct. 17, 1986.
d. Section 246.16(b)(2)	Availability of funds (item #5).	Oct. 1, 1986.
e. Section 246.16(c)(3)	Advance startup funds (item #5).	Oct. 1, 1986.
f. Section 246.23(c)	Repayment of benefits by recipients (item #6).	Oct. 1, 1986.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 407, Alexandria, Virginia 22302, (703) 756–3746.

SUPPLEMENTARY INFORMATION: .

Classification

This final rule has been reviewed under Executive Order 12291 and has been classified to be *not major*. The Department does not anticipate that this rule will have an economic impact on the economy of $100 million or more. This rule will not result in a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. Nor will this rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Pursuant to that review, the Acting Administrator of the Food and Nutrition Service (FNS) has determined that this final rule does not have a significant economic impact on a substantial number of small entities. The reporting and recordkeeping requirements identified in § 246.25(b) have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (40 U.S.C. 3507).

The changes to the WIC Program as set forth in this final rule are nondiscretionary provisions mandated by Pub. L. 99–500, 99–591, and 99–498. Because the nondiscretionary nature of this rule makes notice and comment impracticable and unnecessary and because immediate implementation of the provisions is in the public's interest, S. Anna Kondratas has certified that good cause exists for making this rule effective upon publication and without public comment. Further, since this rule merely implements cited statutory provisions, it constitutes an interpretive rule for which notice and comment rulemaking and a 30-day period before taking effect are not required by 5 U.S.C. 553.

The WIC Program is listed in the Catalog of Federal Domestic Assistance under No. 10.557 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule related notice published June 24, 1983 (48 FR 29114)).

Background

The recently enacted School Lunch and Child Nutrition Amendments of 1986 (as included in Pub. L. 99–500 and 99–591), amend Section 17 of the Child Nutrition Act of 1966 (CNA) and require changes to the administration and operation of the WIC Program. In addition, recently enacted Pub. L. 99–498, the Higher Education Amendments of 1986, excludes certain Federal student assistance grants and scholarships from consideration as income and resources in determining eligibility for Federally funded programs, including the WIC Program. This final rule will address only the nondiscretionary changes in Pub. L. 99–500, 99–591 and 99–498.

One statutory provision in Pub. L. 99–500 and 99–591 which involves discretion in its implementation was

included in a separate proposed rulemaking published in the **Federal Register** at 52 FR 12527. The provision requires that not less than nine-tenths of one percent of the funds appropriated for any fiscal year for the program shall be available for services to eligible migrants. The legislation mandates that the migrant funds set-aside be effective retroactive to October 1, 1986. The Department has developed interim implementation procedures to comply with this mandate. Procedures for implementing this provision in all future years was presented to the public for comment in the proposed rulemaking.

In compliance with the mandates of Pub. L. 99–500, 99–591 and 99–498, this final rule incorporates the following changes:

1. Sales tax on WIC food purchases (§§ 246.3 and 246.12)

A new paragraph (d) has been added to § 246.3 which makes State agencies ineligible to participate in the WIC Program if State or local sales tax is collected on WIC food purchases. Section 342 of Pub. L. 99–500 and 99–591 stipulates that "A State shall be ineligible to participate * * * if the Secretary determines that State or local sales taxes are collected within the State" on program food purchases. The legislation does not provide for any waivers of this requirement. Congress noted that its intent in passing the sales tax provision was to ensure that WIC funds are spent solely for the purpose of the program and not diverted to State and local treasuries. Therefore, this provision applies to all sales taxes on WIC food purchases "within the State," whether such taxes are levied by State or local governments or by independent taxing authorities, such as Indian entities. This legislative mandate will be enforced through the WIC Program administrative structure as follows.

FNS executes program agreements with State agencies, defined in the regulations to include designated agencies of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, the Trust Territory of the Pacific Islands, and Indian entities. Thus, FNS will enforce the taxing prohibition directly with both geographical and Indian State agencies. All State agencies must ensure that no sale taxes are collected on WIC food purchases in areas in which their agency administers the program. This responsibility includes addressing the taxing of WIC food purchases by independent taxing authorities within a State agency's program area, including sovereign Indian entities which are not themselves State agencies. State agencies will not automatically be denied WIC Program funding if sovereign Indian entities within their program area fail to repeal their laws and continue to collect sales tax on all food purchases. However, to ensure that no sales tax is collected on WIC food purchases by such entities, the State agency must revoke the authorization of any vendors which collect sales tax on WIC food purchases and may not authorize them in the future. This action will ensure continued program funding. Thus, for example, if a sovereign Indian entity that is not a State agency declines to repeal WIC sales tax, participants under its jurisdiction will be required to purchase their WIC foods from authorized vendors who do not charge a sales tax. A conforming amendment has been made in § 246.12(f), food vendor agreements, requiring that the agreement specify that sales tax shall not be collected on WIC food purchases by the vendor.

Recognizing that legislatures would need time to convene and consider appropriate legislative changes, Congress specified an implementation timeframe. The amendment applies to State agencies beginning with the fiscal year that commences after the end of the first regular session of the State agency's legislature (or pertinent governing body) following the date of enactment of the amendment. The Department understands that the legislatures for all of the affected geographic States convened in January 1987. Assuming the legislative sessions adjourn prior to October 1, 1987, these State agencies must implement this provision no later than October 1, 1987. The implementation timeframe required by Congress is set forth in the "Effective Dates" section of this preamble.

The repeal of these sales taxes will permit Stated agencies to serve more participants with their food grants. The Department has identified 14 States and a few independent taxing authorities that currently tax WIC food purchases. The repeal of all such taxes would return approximately $11 million to the program in Fiscal Year 1988, enabling these State agencies to serve about 30,000 more participants.

2. State Plan (§ 246.4)

Section 344 of the School Lunch and Child Nutrition Amendments of 1986 amended the list of State Plan requirements by deleting some provisions and adding new areas to be included in the Plan. The objectives of Congress in revising the State Plan requirements are to simplify the State Plan development process and to allow more State agency flexibility while reserving flexibility for the Department to determine necessary content.

In final WIC regulations published on February 13, 1985 (50 FR 6108), the Department made extensive revisions to the list of State Plan requirements and procedures for Plan approval in order to streamline the plans. It should also be noted that one of the new legislative State Plan mandates has already been established in the WIC regulations. Pursuant to this 1985 change in the regulations, State agencies may submit only those parts of a plan that differ from plans submitted for the previous fiscal year. Previously, State agencies were expected to submit the complete State Plan each fiscal year.

The legislation has deleted several items from the list of mandatory State plan requirements, such as submission of the State procedure manual, a description of the methods for determining nutritional risk, and a description of the State agency's nutrition education goals and action plans. While these provisions are no longer mandated by the legislation, they become discretionary (under the Secretary's authority to require any additional items he deems necessary). Therefore, the public must be afforded the opportunity to comment on the appropriateness of retaining or deleting these provisions. The Department will retain all of the deleted requirements in the regulations only until such time as public input can be obtained through a proposed rulemaking. The Department is also considering other changes for inclusion in the proposed rulemaking in order to further streamline State Plan requirements.

The legislation now requires that the State Plan include a plan to expend funds to carry out the program during the relevant fiscal year. Prior legislation required that the State Plan include a budget for administrative funds. Section 246.4(a)(2) of the current regulations already requires that the State Plan include a budget for administrative funds and an estimate of food expenditures. Since the current regulatory requirement encompasses how State agencies will expend their funds and therefore meets the intent of the new legislation, no changes are necessary to implement this requirement.

The additional State Plan requirements mandated by Pub. L. 99–500 and 99–591 which do necessitate regulatory changes have been incorporated into § 246.4 as follows. First, a new paragraph (a)(18) has been added to require that the State Plan

include the State agency's plan to provide program benefits to eligible persons most in need of benefits and to enroll eligible women in the early months of pregnancy, to the maximum extent practicable. The Department recognizes that this new provision overlaps in part with the current requirement in paragraph (a)(7) regarding the State agency's plans for informing eligible persons of the availability of program benefits. While the requirement for publicly announcing and distributing program information to specific organizations on an annual basis is retained in Pub. L. 99–500 and 99–591, a description of how the State agency will comply with this requirement is no longer required by law as part of the State Plan. However, the Department is retaining this descriptive requirement in paragraph (a)(7) until such time as the public can be afforded the opportunity to comment on the retention or deletion of the requirement as part of the State Plan.

Secondly, paragraph (a)(8) has been revised to require a description of plans to coordinate WIC operations with the Aid to Families with Dependent Children (AFDC) Program and the Maternal and Child Health (MCH) Program. Many States currently provide this information in their State Plans.

Third, section 345 of the legislation deletes the requirement that the State agency conduct hearings to enable the general public to participate in the development of the State Plan. Therefore, in § 246.4(b) this requirement has been replaced with a general requirement that State agencies establish procedures to ensure that the public has an opportunity to comment on the development of the plan. Congress noted that State agencies have cited that in some cases public hearings were not the most effective method of obtaining public input. Therefore, this change provides States agencies more flexibility in soliciting public input, through the use of public hearings and/or some other mechanism.

3. Income Exclusion (§ 246.7(c)(2)(iv))

Pub. L. 99–498, the Higher Education Amendments of 1986, enacted October 17, 1986, excludes certain Federal student assistance grants and scholarships from consideration as income and resources in determining eligibility for Federally funded programs. The law states that no portion of any student financial assistance received by an individual from any program funded under Title IV of the Higher Education Act of 1965 (including the Pell Grant, Supplemental Educational Opportunity Grant, State Student Incentive Grant, National Direct Student Loan, PLUS, College Work Study, and Byrd Honor Scholarship programs), which is used by the student for specified costs (such as, books, materials, tutition, fees, supplies, transportation) shall be considered as income or resources in determining eligibility for assistance under any program funded in whole or in part with Federal funds. The specified costs are set forth in section 472 (1) and (2) of the Higher Education Act as "(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including the costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;" and "(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution * * *." The specified costs set forth in section 472 (1) and (2) of the Act are those costs which are related to the costs of attendance at the educational institution and do not include room and board and dependent care expenses. To update the list of Federal program benefits which are excluded from income, § 246.7(c)(2)(iv) is amended by adding a new paragraph (L) which excludes, in determining WIC income eligibility, student financial assistance under Title IV of the Higher Education Act of 1965, to the extent it is used for costs described in section 472 (1) and (2) of that Act.

4. Warehouse Facilities Costs and Documentation of One-Sixth Nutrition Education (§ 246.14)

Two revisions have been made in § 246.14. First, § 246.14(b) includes a new sentence which specifies that warehouse facilities costs may be considered as an allowable food cost. Previously, warehouse facility costs in a direct distribution system were defined in section 17(b)(1) of the Child Nutrition Act as administrative costs, while in a retail purchase system they are, in effect, a food cost since the cost of warehousing is included in the retail price of the foods. Section 341 of the Amendments changed the term "administrative costs" to "costs for nutrition services and administration" and deleted the cost of warehouse facilities from the list of items for which administrative funds are to be used, thus allowing this to be considered a food cost. Congress indicated that the warehouse amendment is intended to provide for a more equitable treatment of, and compensation to, State agencies willing to take on the extra management duties of a cost-efficient direct distribution system.

Currently, the State of Mississippi, the only State agency with a statewide direct distribution system, has achieved considerable food costs savings. The term "administrative costs" was changed by Congress to "costs for nutrition services and administration" because the wording in the statute led to a misunderstanding about how the funds are being used. In fact, a number of program services, such as nutrition assessments and nutrition education are allowable under the administrative cost category. Based on this same concern addressed by commenters on a proposed rulemaking of July 8, 1983 (48 FR 31502), the Department replaced the term "administrative costs" with "administrative and program services costs" in a final rulemaking of February 13, 1985 (50 FR 6108). Since the WIC regulations currently address Congress' general concern and incorporate a term recommended by the public, the Department is retaining in the regulations the term "administrative and program services costs."

The second revision occurs in § 246.14(c)(1), regarding the required documentation by State agencies that one-sixth of their administrative costs is spent on nutrition education activities. Section 350 of the legislation directs the Department to keep to a minimum the documentation required of State agencies in connection with this requirement. The Department has long been sensitive to the need to minimize such documentation. FNS has issued an instruction (FNS Instruction 807–1) which describes in detail various methods State agencies can use to reduce this recordkeeping burden while maintaining an acceptable standard of accountability. Section 246.14(c)(1) formalizes the Department's responsibility by requiring that it provide State agencies with such guidance.

5. Improving State agency program operations, availability of funds, and advance payments to local agencies (§ 246.16)

Sections 343(b) and 349 of the Amendments revise section 17(g) of the CNA to provide that the evaluation funds set aside pursuant to that paragraph can be used to provide technical assistance to improve State agency administrative systems and for the preparation of a biennial participation report to Congress (described later in this preamble). Section 246.16(b) of the regulations,

which currently sets forth the types of activities the Department is authorized to conduct with WIC evaluation funds, has been revised to reflect these newly authorized uses.

Section 353 of Pub. L. 99–500 and 99–591 revises section 17(i) of the CNA by inserting the following provision: "(i) not more than 1 percent of the amount of funds allocated to a State agency * * * for supplemental foods for a fiscal year may be expended by the State agency for expenses incurred * * * for supplemental foods during the preceding fiscal year; or (ii) not more than 1 percent of the amount of funds allocated to a State agency for a fiscal year * * * may be expended by the State agency during the subsequent fiscal year." Thus, the new law permits a State agency to *either* carry funds forward for expenditures in the fiscal year following the one for which the Department had allocated the funds, *or* "backspend" funds for costs incurred in the preceding fiscal year. The "carry-forward" provision applies to both food and administrative funds, while the "backspending" provision applies to food funds only. A State agency may elect either provision, but not both, with respect to the funds for a single fiscal year. The new law also prohibits the Department from considering funds carried forward from the preceding fiscal year when allocating funds to any State agency for the current fiscal year.

The statute provides that the option to carry forward or backspend funds shall not apply to appropriations made prior to the enactment of Pub. L. 99–500 and 99–591. Therefore, the changes do not apply to Fiscal Year 1986 funds, and State agencies cannot use 1 percent of their Fiscal Year 1986 funds for Fiscal Year 1987 costs. State agencies may use funds appropriated under Pub. L. 99–500 and 99–591 to either carry forward up to 1 percent of their Fiscal Year 1987 food and administrative and program services funds into Fiscal Year 1988 *or* backspend up to 1 percent of their Fiscal Year 1987 food funds for expenses incurred for supplemental foods in Fiscal Year 1986. For Fiscal Year 1987 *only*, the basis for calculating the 1 percent does not include unspent Fiscal Year 1986 funds reallocated by the Department of State agencies for Fiscal Year 1987 because such funds were appropriated prior to the enactment of Pub. L. 99–500 and 99–591.

Accordingly, § 246.16(b) has been revised to allow State agencies the option to carry forward food and administrative funds or backspend food funds. A conforming amendment has also been made to § 246.16(d). Funds carried forward into the subsequent fiscal year are exempt from recovery and reallocation by FNS, provided the State agency had properly notified FNS of its intent to exercise the "carry-forward" option.

Section 246.16(c)(2) has been reorganized and a new paragraph (c)(3) has been added to make advance payments to local agencies for startup purposes a State agency option. Previously, State agencies were required to provide such payments to local agencies. This change will permit State agencies to judge the appropriateness of startup payments on a case-by-case basis and reflects the change to section 17(h)(4) of the Child Nutrition Act as made by section 352 of the Amendments.

6. Repayment of Certain Benefits By Recipients (§§ 246.7, 246.9, 246.12, 246.23)

Section 347 of the recent Amendments requires State agencies to recover the cash value of program benefits overissued to a family as a result of a member of that family intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, unless the State agency determines that the recovery would not be cost effective. Congress indicated that State agencies would be expected to provide a hearing to recipients wanting to appeal the recovery actions and proper notification of that action. This provision is effective beginning with applications received on or after October 1, 1986.

Accordingly, the Department has renamed §§ 246.23 (a) and (b), redesignated paragraph (c) as paragraph (d), and added a new paragraph (c). Section 246.23(c) stipulates that, if a State agency determines that an individual has intentionally misrepresented information, the State agency must recover from the individual, in cash, the value of program benefits improperly issued, unless the State agency determines that the recovery would not be cost effective. The State agency shall establish standards, based on a cost benefit review, for determining when recovery is cost-effective and maintain on file documentation of the disposition of all cases of improperly issued benefits. In addition, all such cases must be pursued to the fullest extent possible, consistent with the State agency's cost-effective standards. The State agency may delegate to its local agencies the responsibility for the collection of such claims in accordance with the State agency's standards. Any monies collected through such recovery procedures are food funds and, therefore, must be returned to the State or local agency's food account.

Other conforming amendments are necessary to implement this provision. Section 246.7(h)(8) has been revised to stipulate that the certification form must include, in the statement read to or by the applicant prior to signing, notification that intentional misrepresentation may result in paying the State or local agency, in cash, the value of the food benefits improperly received. Also, paragraph (i)(7) has been redesignated as paragraph (i)(8) and a new paragraph (i)(7) has been added which requires State and local agencies, when they pursue collection of a claim against an individual who has been improperly issued benefits, to advise the individual in writing of the reasons for the claim and of the right to a fair hearing.

Several paragraphs in § 246.9, Fair Hearings, have been revised. First, paragraph (a) has been revised to require State agencies to provide a fair hearing procedure whereby an individual may appeal a State or local agency's action to recover the cash value of improperly issued benefits. Second, paragraph (c) has been revised to require State or local agencies to inform individuals in writing of their appeal rights when the recovery of overissued benefits is pursued. Third, paragraph (k)(3) has been revised to address repayment of the cash value of the food benefits if a fair hearing is held at the local level and the decision is in favor of the local agency. In this case, the local agency must resume its efforts to collect the claim, even during pendency of an appeal of the local-level fair hearing decision to the State agency.

The Department has also revised § 246.12(k)(2) to specify that participant abuse includes intentionally misrepresenting, concealing or withholding information. It should be understood that, as a form of participant abuse, such intentional misconduct is among the reasons listed in § 246.7(g)(1)(i) for which participants may be disqualified from the program mid-certification. Therefore, State and local agencies may disqualify the individual from the Program along with taking the required collection action. In cases in which both disqualification and collection of the overissued benefits are pursued, the notices of adverse actions and any fair hearings may be consolidated.

7. Biennial Participation Report (§ 246.25)

The Department has amended § 246.25 by revising paragraph (b). A separate

paragraph has been established for monthly and semiannual reports currently required to be submitted to FNS. No substantive changes have been made regarding these reports. However, a new paragraph (b)(3) has been added. Section 343 of Pub. L. 99–500 and 99–591 requires the Department to submit a biennial participation report to Congress. This report must include such information as income and nutritional risk characteristics of participants and participation in the program by members of families of migrant farmworkers. The Department intends to utilize existing data sources, such as study results and State agency reports, in the preparation of the first biennial report to Congress. It may be necessary in the future for State and local agencies to supply additional data on an ongoing basis. Therefore, these agencies are required to cooperate in the Department's efforts to prepare these legislatively mandated biennial participation reports.

Section 246.25(b)(3) addresses this report and the need for State and local agencies to provide such information as the Department may consider necessary for the preparation of this report. Any request for additional data to be submitted by State agencies will reflect a balance between the need of Congress for information and the need to maintain reasonable limits on State agency reporting requirements. State agencies will be provided notice if and when any additional data is required in order to prepare the report. As previously noted, the Department is authorized in § 246.16(b) to utilize WIC evaluation funds for the preparation of this biennial report.

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs—social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Public assistance programs, WIC, Women.

Accordingly, 7 CFR Part 246 is amended as follows:

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

1. The authority citation for Part 246 is revised to read as follows:

Authority: Sec. 341–353, Pub. L. 99–500 and 99–591, 100 Stat. 1783 and 3341 (42 U.S.C. 1786); Sec. 3, Pub. L. 95–627, 92 Stat. 3611 (42 U.S.C. 1786); sec. 203, Pub. L. 96–499, 94 Stat. 2599; sec. 815, Pub. L. 97–35, 95 Stat. 521 (42 U.S.C. 1786).

2. In § 246.3:

a. Paragraphs (d) and (e) are redesignated as paragraphs (e) and (f) and a new paragraph (d) is added.

b. Newly redesignated paragraph (e)(3) is amended by changing the reference "(d)(3)" to "(e)(3)" wherever it appears.

The revisions and additions read as follows:

§ 246.3 Administration.

* * * * *

(d) State agency eligibility. A State agency shall be ineligible to participate in the WIC Program if State or local sales tax is collected on WIC food purchases in the area in which it administers the program, except that, if sales tax is collected on WIC food purchases by sovereign Indian entities which are not State agencies, the State agency shall remain eligible if any vendors collecting such tax are disqualified.

* * * * *

3. In § 246.4:

a. Paragraph (a)(8) is revised.

b. A new paragraph (a)(18) is added.

c. Paragraph (b) is revised.

The revisions and additions read as follows:

§ 246.4 State plan.

(a) * * *

(8) A description of how the State agency plans to coordinate program operations with special counseling services and other programs, including, but not limited to, the Expanded Food and Nutrition Education Program (7 U.S.C. 343(d) and 3175); the Food Stamp Program (7 U.S.C. 2011 et seq.); the Early and Periodic Screening, Diagnosis and Treatment Program (Title XIX of the Social Security Act); the Aid to Families with Dependent Children (AFDC) Program (42 U.S.C. 601–615); the Maternal and Child Health (MCH) Program (42 U.S.C. 701–709); family planning; immunization; prenatal care; well-child care; alcohol and drug abuse counseling; and child abuse counseling.

* * * * *

(18) The State agency's plan to provide program benefits to eligible persons most in need of benefits and to enroll eligible women in the early months of pregnancy, to the maximum extent practicable.

(b) *Public comment.* The State agency shall establish a procedure under which members of the general public are provided an opportunity to comment on the development of the State agency plan.

* * * * *

4. In § 246.7:

a. A new paragraph (c)(2)(iv)(L) is added.

b. Paragraph (h)(8) is revised.

c. Paragraph (i)(7) is redesignated as paragraph (i)(8).

d. A new paragraph (i)(7) is added.

The revisions and additions read as follows:

§ 246.7 Certification of participants.

* * * * *

(c) * * *

(2) * * *

(iv) * * *

(L) Student financial assistance received from any program funded in whole or part under Title IV of the Higher Education Act of 1965, including the Pell Grant, Supplemental Educational Opportunity Grant, State Student Incentive Grants, National Direct Student Loan, PLUS, College Work Study, and Byrd Honor Scholarship programs, which is used for costs described in section 472 (1) and (2) of that Act (Pub. L. 99–498, section 479B, 20 U.S.C. 1087uu). The specified costs set forth in section 472 (1) and (2) of the Higher Education Act are tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including the costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution. The specified costs set forth in section 472 (1) and (2) of the Act are those costs which are related to the costs of attendance at the educational institution and do not include room and board and dependent care expenses.

* * * * *

(h) * * *

(8) The following statement with a space for the signature of the applicant, parent, or caretake to sign after reading or being read the following statement:

I have been advised of my rights and obligations under the Program. I certify that the information I have provided for my eligibility determination is correct, to the best of my knowledge. This certification form is being submitted in connection with the receipt of Federal assistance. Program officials may verify information on this form. I understand that intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts may result in paying the State agency, in cash, the value of the food benefits improperly issued to me and may subject me to civil or criminal prosecution under State and Federal law.

(i) * * *

(7) When a State or local agency pursues collection of a claim pursuant to § 246.23(c) against an individual who has been improperly issued benefits, the person shall be advised in writing of the reason(s) for the claim, the value of the improperly issued benefits which must be repaid, and of the right to a fair hearing.

* * * * *

5. In § 246.9:

a. Paragraph (a) is revised.

b. Paragraph (c) is revised.

c. Paragraph (k)(3) is revised.

The revisions read as follows:

§ 246.9 Fair hearing procedures for participants.

(a) *Availability of hearings.* The State agency shall provide a hearing procedure through which any individual may appeal a State or local agency action which results in a claim against the individual for repayment of the cash value of improperly issued benefits or results in the individual's denial of participation or disqualification from the Program.

* * * * *

(c) *Notification of appeal rights.* At the time of a claim against an individual for improperly issued benefits or at the time of participation denial or of disqualification from the Program, the State or local agency shall inform each individual in writing of the right to a fair hearing, of the method by which a hearing may be requested, and that any positions or arguments on behalf of the individual may be presented personally or by a representative such as a relative, friend, legal counsel or other spokesperson. Such notification is not required at the expiration of a certification period.

* * * * *

(k) * * *

(3) Within 45 days of the receipt of the request for the hearing, the State or local agency shall notify the appellant or representative in writing of the decision and the reasons for the decision in accordance with paragraph (k)(2) of this section. If the decision is in favor of the appellant and benefits were denied or discontinued, benefits shall begin immediately. If the decision concerns disqualification and is in favor of the agency, as soon as administratively feasible, the local agency shall terminate any continued benefits, as decided by the hearing official. If the decision regarding repayment of benefits by the appellant is in favor of the agency, the State or local agency shall resume its efforts to collect the claim, even during pendency of an appeal of a local-level fair hearing decision to the State agency. The appellant may appeal a local hearing decision to the State agency, provided that the request for appeal is made within 15 days of the mailing date of the hearing decision notice. If the decision being appealed concerns disqualification from the Program, the appellant shall not continue to receive benefits while an appeal to the State agency of a decision rendered on appeal at the local level is pending. The decision of a hearing official at the local level is binding on the local agency and the State agency unless it is appealed to the State level and overturned by the State hearing official.

* * * * *

6. In § 246.12:

a. A new paragraph (f)(2)(xx) is added.

b. The first two sentences in paragraph (k)(2) are revised.

The revisions and additions read as follows:

§ 246.12 Food delivery systems.

* * * * *

(f) * * *

(2) * * *

(xx) The food vendor shall not collect sales tax on WIC food purchases.

* * * * *

(k) * * *

(2) The State agency shall establish procedures designed to control participant abuse of the program. Participant abuse includes, but is not limited to, intentionally making false or misleading statement or intentionally misrepresenting, concealing or withholding facts to obtain benefits; sale of supplemental foods or food instruments to, or exchange with, other individuals or entities; receipt from food vendors of cash or credit toward purchase of unauthorized food or other items of value in lieu of authorized supplemental foods; and physical abuse, or threat of physical abuse, of clinic or vendor staff. * * *

* * * * *

7. In § 246.14:

a. Paragraph (b) is revised.

b. Introductory paragraph (c)(1) is amended by adding a new sentence before the last sentence.

The revisions and additions read as follows:

§ 246.14 Program costs.

* * * * *

(b) *Specified allowable food costs.* Food costs are the acquisition cost of the supplemental foods provided to State or local agencies or to participants, whichever receives foods first, except the warehouse facilities costs shall be considered as an allowable food cost. The State agency shall ensure that food costs do not exceed the food vendor's customary sale price. Food example, in retail purchase systems, food costs may not exceed the shelf price of the food provided.

(c) * * *

(1) * * * FNS shall advise State agencies regarding methods for minimizing documentation of the one-sixth expenditure requirement. * * *

* * * * *

8. In § 246.16:

a. Paragraph (b) is revised.

b. Paragraph (c)(2) is revised and a new paragraph (c)(3) is added.

c. Paragraph (d) is revised.

The revisions and additions read as follows:

§ 246.16 Distribution of funds.

* * * * *

(b) *Distribution of funds to State agencies.* Funds made available to the Department for the program in any fiscal year will be distributed as follows:

(1) Up to one-half of one percent of the sums appropriated for each fiscal year, not to exceed $3,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, providing technical assistance to improve State agency program operations, preparing the biennial Participation Report to Congress described in § 246.25(b)(3) of this Part, and administering pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations.

(2) All funds not made available to the Secretary in accordance with paragraph (b)(1) of this section shall be distributed to State agencies on the basis of funding formulas which allocate funds to all State agencies for food costs and administrative and program services costs incurred during the fiscal year for which the funds had been made available to the Department. A State agency may exercise either of the following options with respect to funds allocated to it for any fiscal year, beginning with Fiscal Year 1987, except that for Fiscal Year 1987 *only*, the basis for calculating the one percent shall not include unspent Fiscal Year 1986 funds reallocated by the Department to State agencies in Fiscal Year 1987:

(i) Not more than one percent of the funds allocated to any State agency for food costs incurred in any fiscal year may be expended by such State agency for food costs incurred in the preceding fiscal year; or

(ii) Not more than one percent of the funds allocated to any State agency for food costs and for administrative and program services costs incurred in any fiscal year may be carried forward and expended by such State agency for such costs incurred in the subsequent fiscal year. Any funds carried forward by the State agency in accordance with this paragraph for expenditures in the subsequent fiscal year shall not affect the amount of funds allocated to such State agency for the subsequent fiscal year. FNS will presume that the funds thus carried forward are the first funds expended by such State agency for costs incurred in the subsequent fiscal year.

(3) Each State agency's funds will be provided by means of a Letter of Credit unless another funding method is specified by FNS. State agencies shall use funds to cover those allowable and documented program costs, as defined in § 246.14, which are incurred by the State agency and participating local agencies within their jurisdictions.

(c) * * *

(2) Allocate funds to cover expected local agency administrative and program services costs in a manner which takes into consideration each local agency's needs. For the allocation of administrative and program services funds, the State agency shall develop an administrative and program services funding procedure, in cooperation with several representative local agencies, which takes into account the varying needs of the local agencies. The State agency shall consider the views of local agencies, but the final decision as to the funding procedure remains with the State agency. The State agency shall take into account factors it deems appropriate to further proper, efficient and effective administration of the program, such as local agency staffing needs, density of population, number of persons served, and availability of administrative support from other sources.

(3) The State agency may forward in advance to local agencies those administrative and program services funds necessary for the successful commencement of program operations during the first three months of operation or until the local agency reaches its projected caseload level, whichever comes first.

(d) *Recovery of funds.* Funds may be recovered from a State agency at any time FNS determines, based on State agency reports of expenditures and operations, that the State agency is not expending funds at a rate commensurate with the amount of funds distributed or provided for expenditures under the Program, except that funds carried forward into the subsequent fiscal year shall be exempt from recovery and reallocation by FNS, provided the State agency had properly notified FNS of its intent to exercise the option established in paragraph (b)(2)(ii) of this section.

* * * * *

9. In § 246.23:

a. The title of paragraph (a) is revised.

b. The title of paragraph (b) is revised.

c. Paragraph (c) is redesignated as paragraph (d).

d. A new paragraph (c) is added.

The revisions and additions read as follows:

§ 246.23 Claims and penalties.

(a) *Claims against State agencies.* * * *

(b) *Interest charge on claims against State agencies.* * * *

(c) *Claims against participants.* If a State agency determines that food benefits have been improperly issued under the Program as the result of a participant, guardian, or caretaker intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, the State agency shall recover, in cash, from such participant, guardian, or caretaker an amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost-effective. The State agency shall establish standards, based on a cost benefit review, for determining when recovery is cost-effective and maintain on file documentation of the disposition of all cases of improperly issued benefits. All such cases shall be pursued to the fullest extent possible, consistent with the State agency's cost-effectiveness standards. The State agency may delegate to its local agencies the responsibility for the collection of such claims in accordance with the State agency's standards.

* * * * *

10. Section 246.25 is amended by revising paragraph (b) to read as follows:

§ 246.25 Records and reports.

* * * * *

(b) *Financial and participation reports.*—(1) *Monthly reports.* State agencies shall submit financial and program performance data on a monthly basis as specified by FNS. Such information may include, but shall not be limited to, actual and projected participation, the number of persons on waiting lists, and itemized administrative and program services funds expenditures. State agencies shall require local agencies to report such financial and participation information as is necessary for the efficient management of food and administrative and program services funds. When considered necessary and feasible by FNS, State agencies may be required to:

(i) Show in the "Remarks" section of the Financial and Participation Report the amount of cash allowances exceeding three days need being held by their local agencies or contractors; and

(ii) Provide short narrative explanations of actions taken by the State agency to reduce such excess balances.

(2) *Semiannual reports.* Semiannually, on dates specified by FNS, State agencies shall report the number of persons enrolled in the Program by category (i.e., pregnant, breastfeeding, and postpartum women, infants, and children) within each priority level as established in § 246.7(d)(4).

(3) *Biennial reports.* State and local agencies shall provide such information as may be required by FNS to fulfill the requirement that biennially a report be provided to Congress which includes, at a minimum, information on income and nutritional risk characteristics of participants and participation in the program by members of families of migrant farmworkers.

* * * * *

Dated: May 28, 1987.

S. Anna Kondratas,

Acting Administrator.

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H.R. 1085/Pub. L. 100-48

New GI Bill Continuation Act. (June 1, 1987; 101 Stat. 331; 2 pages) Price: $1.00

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Commemorating the fortieth anniversary of the Marshall plan. (June 1, 1987; 101 Stat. 333; 2 pages) Price: $1.00