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

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WHO: The Office of the Federal Register.

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

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2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213 and 315

Conversion of Excepted Appointees Occupying Professional and Administrative Career Positions

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing regulations setting forth the requirements for noncompetitive conversion of employees occupying professional and administrative career (PAC) positions from excepted appointments at the GS–7 level to competitive appointments at the GS–9 level. These regulations will permit employees who have at least 1 year of satisfactory service at the GS–7 level to be converted to GS–9 positions in PAC occupations for which they qualify. These regulations are necessary to implement Executive Order 12596, which authorizes such conversions.

DATES: Comments must be received on or before September 4, 1987. Regulations effective July 6, 1987.

ADDRESS: Send or deliver written comments to Curtis J. Smith, Associate Director for Career Entry, Office of Personnel Management, Room 6F08, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, (202) 632–6817.

SUPPLEMENTARY INFORMATION: E.O. 12596, issued May 7, 1987, provides that an individual who is employed in a PAC position under the Schedule B appointing authority for PAC positions (5 CFR 213.3202(1)) may be converted noncompetitively to a career or a career-conditional appointment at GS–9, "provided the individual meets qualifications and other requirements established by the Director of the Office of Personnel Management, and further provided the individual's performance is determined by the employing agency, in a careful and formal evaluation, to warrant such conversion to GS–9."

The Executive Order was issued to relieve excessive administrative burdens on both employing agencies and OPM that resulted from the removal of many entry level positions from the competitive service after abolishment of the Professional and Administrative Career Examination (PACE). PACE was abolished on August 31, 1982, to comply with a consent decree entered by the U.S. District Court for the District of Columbia in the civil action known as *Luevano* v. *Devine*. The decree required alternative examinations for all occupations previously covered by PACE. Those occupations, referred to in these regulations as PAC occupations, are listed in the decree and published in the Federal Personnel Manual.

Because OPM had insufficient resources to fully and properly develop and validate competitive examinations for all covered occupations within the short timeframe allowed by the decree, competitive examination for all covered occupations was found to be impracticable. OPM established the Schedule B excepted service appointing authority, 5 CFR 213.3202(l), for use in making external appointments to GS–5/7 PAC positions not covered by alternative competitive examinations.

In developing alternative competitive examinations, OPM has focused its resources on those occupations in which the most hires were expected to occur. The positions covered by seven examinations developed since 1983, along with nine examinations developed prior to the *Luevano* consent decree, account for approximately 55 to 60 percent of all external PAC hiring. The vast majority (75) of the occupations still filled under the Schedule B authority had fewer than 20 external hires each over the 3-year period from 1983 through 1985. Development of job-specific tests for these occupations is complicated by great differences in job requirements among and within the occupations. OPM is continuing to research ways to cover these occupations by competitive examinations that meet the requirements of the *Luevano* consent decree and identify the best candidates for hiring. In the meantime, OPM believes that the Schedule B authority will continue to meet the twin goals of fair and open competition and quality of staffing in the occupations for which we have yet to develop new tests.

However, PAC positions at the GS–5 or GS–7 grade level are trainee positions with a full performance level of GS–9 or higher. Agencies hire at the entry level with the intent of training and promoting the employees to the full performance level. The agencies invest considerable resources to prepare the employees to function at that level. Use of competitive examining procedures to advance well qualified employees who have already received 1 or 2 years of training and have fully met the performance requirements of the position is neither appropriate nor cost effective.

These interim regulations carry out the intent of E.O. 12596 that advancement of employees in PAC occupations be based on demonstrated performance, as is the case in other career ladder occupations. To be converted, an employee (1) must be serving under a Schedule B PAC appointment without time limit; and (2) must have 1 year of qualifying service at the GS–7 level, with a current performance rating of fully successful or better.

Ordinarily, the employee will be converted to a GS–9 position in the same series as the GS–7 position held under Schedule B appointment. We recognize, however, that some career development programs provide for rotation among occupational series and that agencies sometimes need to realign occupational structure to meet changing workload demands. To accommodate these situations, the regulations permit conversion to be made in any PAC occupation for which the employee qualifies.

The conversion may be effective at any time after the employee satisfies the specified requirements. The regulations do not set a deadline for initiating the action so that agencies can coordinate conversion decisions within normal performance appraisal and career development cycles.

Employees converted under this authority will not be required to serve a probationary period and will receive credit toward career tenure for their service under nontemporary Schedule B

appointment. Any service in a time-limited appointment under the authority of 5 CFR 213.3202(l) may be credited toward the 1-year experience requirement but may not be credited toward career tenure.

To provide for PAC employees who received competitive appointments to GS–9 positions before issuance of E.O. 12596, a variation has been approved granting those employees tenure credit for service under nontemporary Schedule B appointments, provided the employees' service since their excepted appointments has been substantially continuous.

E.O. 12596 covers only conversion of employees from Schedule B appointments at the GS–7 grade level to career or career-conditional appointments at the GS–9 grade level. The Schedule B PAC appointing authority, 5 CFR 213.3202(l), is amended to reflect appointees' eligibility for such conversion. Employees serving in PAC positions at the GS–5 and GS–7 levels when a new competitive examination is established for the GS–5/7 positions may be retained in the competitive service and converted to a career or career-conditional appointment in accordance with 5 CFR 316.702 and 315.701. To provide for employees who do not meet the requirements for conversion under those regulations when their GS–5/7 PAC positions are made subject to a competitive examination, the Schedule B appointing authority is revised to permit such appointees to continue serving in Schedule B until they can be converted under E.O. 12596.

Waiver of Notice of Proposed Rulemaking and 30-day Delay of Effective Date

Under 5 U.S.C. 553(b)(3)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making amendments effective in less than 30 days. The regulations are needed to give practical effect to E.O. 12596. Since the President has already determined that noncompetitive conversion of PAC appointees is appropriate, we expect that most comments on these regulations will deal with the technical provisions. Because agencies have urgent, current needs to utilize this conversion authority to promote efficient operations, implementation of E.O. 12596 should not be delayed until technical details are finalized.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because they apply only to Federal employees.

List of Subjects in 5 CFR Parts 213 and 315

Administrative practice and procedures, Government employees.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is amending 5 CFR Parts 213 and 315 as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for Part 213 continues to read as follows:

Authority: U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 213; Section 213.101 also issued under 5 U.S.C. 2103; Section 213.102 also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec. 3(5); Section 213.3102 also issued under 5 U.S.C. 3301, 3302 (E.O. 12364, 47 FR 22931), 3307, and 8337(h).

2. In § 213.3202, the last sentence of paragraph (l) is removed, and four new sentences are added at the end of paragraph (l) to read as follows:

§ 213.3202 Entire executive civil service.

* * * * *

(l) * * * The appointment authority agreement will remain in effect with respect to particular GS–5 and GS–7 PAC positions only so long as there is no competitive examination available to fill those positions. Establishment of a register under an alternative competitive examination for any PAC position(s) at grades GS–5 and GS–7 will immediately terminate all agreements permitting new Schedule B appointments to such position(s) under this authority. Individuals appointed before termination of the agreements may, however, continue to serve under those appointments at grades GS–5 and GS–7 until they are appointed to a competitive position in accordance with applicable civil service laws, rules, and regulations. An incumbent of a Schedule B PAC position may be converted to a career or career-conditional appointment under the provisions of Executive Order 12596, subject to the conditions set out in § 315.710 of this chapter.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

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

Authority: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; Sections 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652; Sections 315.602 and 315.604 also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec. 3(5); Section 315.605 also issued under E.O. 12034, 43 FR 1917, Jan. 13, 1978; Section 315.606 also issued under E.O. 11219, 3 CFR 1964–1965 Comp., p. 303; Section 315.607 also issued under 22 U.S.C. 2506, 93 Stat. 371, E.O. 12137, 22 U.S.C. 2506, 94 Stat. 2158; Section 315.608 also issued under E.O. 12362, 47 FR 21231; Section 315.610 also issued under 5 U.S.C. 3304(d), Pub. L. 99–586; Section 315.710 also issued under E.O. 12596, 52 FR 17537; Subpart I also issued under 5 U.S.C. 3321, E.O. 12107.

4. In Part 315, a new § 315.710 is added to Subpart G to read as follows:

Subpart G—Conversion to Career or Career-Conditional Employment from Other Types of Employment

§ 315.710 Professional and administrative career employees serving under Schedule B appointments.

(a) *Coverage.* This section covers employees serving in occupations that were covered by the Professional and Administrative Career Examination on August 30, 1982, and that were listed in the consent decree entered on November 19, 1981, by the U.S. District Court for the District of Columbia in the civil action known as *Luevano* v. *Devine* and numbered as No. 79–271. Those occupations are designated in these regulations as professional and administrative career (PAC) occupations or positions. OPM will publish a listing of PAC occupations in the Federal Personnel Manual.

(b) *Eligibility.* An agency may, but is not requried to, convert appointments of employees occupying PAC positions under nontemporary appointments effected under § 312.3202(l) of this chapter to career or career-conditional appointments at the GS–9 level when they—

(1) Complete at least 1 year of service at the GS–7 level that meets the quality of experience requirement for a GS–9 position in a PAC occupation (less than full-time service is credited according to the relation it bears to the full-time workweek);

2. Demonstrate performance that warrants conversion at GS–9 (a current performance rating of fully successful or better for the year immediately preceding conversion is necessary for this purpose);

(3) Meet all requirements and conditions governing career and career-conditional appointment except those requirements concerning competitive selection from a register;

(4) Are converted without a break in service of one workday; and

(5) Are converted as a result of a deliberate decision by management.

(c) *Tenure on conversion.* An employee converted under paragraph (a) of this section becomes—

(1) A career-conditional employee, except as provided in paragraph (c)(2) of this section;

(2) A career employee if he or she has completed 3 years of substantially continuous service in nontemporary appointments under § 213.3202(l), of this chapter, or has otherwise completed the service requirement for career tenure, or is excepted from it by § 315.201(c).

(d) *Acquisition of competitive status.* A person whose employment is converted to career or career-conditional employment under this section acquires a competitive status automatically on conversion.

[FR Doc. 87-15282 Filed 7-2-87; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Part 841

Federal Employees Retirement System—General Administration; Government Costs and Employee Deductions and Government Contributions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting its two interim rules to implement the Government cost provisions and the employee deductions and government contributions provisions of the Federal Employees Retirement System (FERS) Act of 1986. These rules explain the methodology for computing Government agencies' shares of the cost of funding the basic benefits of FERS, the notice that will be provided for changes in rates, and the appeal rights available to agencies.

EFFECTIVE DATE: August 5, 1987.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202)-632-4682.

SUPPLEMENTARY INFORMATION: On December 31, 1986, OPM published (51 FR 47185) interim rules and required comments on those rules to implement the Government cost provision of the FERS Act of 1986. OPM received eight comments on these interim rules.

On January 16, 1987, OPM published (52 FR 2056) and requested comments on interim rules to implement the employees deductions and government contributions provisions of the FERS Act of 1986. OPM received two comments on these interim rules.

I. Government Costs

Section 8423 of title 5, United States Code, as added by the FERS Act of 1986, provides for the payment of the Government's share of the cost of the basic benefits plan under FERS. Employee contributions are established by law and constitute only a small fraction of the cost of funding the basic benefits plan. Employing agencies are required to pay the remaining costs. The amount of funding required, known as "normal costs," is the entry age normal cost of the provisions of FERS that relate to the Civil Service Retirement Fund (Fund). The normal cost must be computed by OPM in accordance with generally accepted actuarial practice and standards (using dynamic assumptions).

Most of the comments related to the appeals procedure. One commenter questioned whether OPM has authority to issue regulations that restrict the discretion of the Board of Actuaries of the Civil Service Retirement System in deciding appeals. Congress gave the Board authority to decide normal cost appeals but no rulemaking authority. Section 8423 directs OPM, not the Board, to issue regulations governing appeals. OPM has fully consulted with the Board in preparation of both the interim rules and these final rules. Most of the restrictions on appeals that are included in these rules were suggested by the Board. OPM is issuing these rules with the advice and agreement of the Board.

One commenter suggested that the Board's review should not be limited to normal cost but should include determinations of amounts due as supplemental liability. Section 8423(c) allows appeals of supplemental liability determinations. Accordingly, OPM has adopted this comment. Section 841.409 has been revised to include this appeal right.

Three commenters objected to the 6-month time limit for filing appeals under § 814.409. One commenter suggested a 12-month limit. The Board believed that a 12-month limit would be appropriate for the initial normal cost percentages, but that the 6-month limit should be retained for appeals of changes in normal cost percentages. However, because, on June 18, 1987, OPM published (52 FR 23222) a notice of changes in the normal cost percentages starting a new 6-month appeal period, extending the initial appeal period would no longer serve any useful purpose, and OPM has retained the 6-month time limit.

Three commenters objected to the requirement in § 841.411(d)(4) that an agency must demonstrate that its normal cost differs from the Governmentwide normal cost percentage by 10 percent in order for the Board to consider its appeal. The Board wanted to retain the 10-percent requirement because it believed that the 10-percent figure provides a reasonable and necessary cutoff point.

Two commenters suggested that agencies should be allowed to use agency-specific data for some demographic factors and OPM-generated factors for others. Sections 841.410(c) and 841.411(d) permit such mixing of data and assumptions if the agency can satisfy the Board on a case-by-case basis that such mixing is reasonable. Section 841.411(d) (1) and (2) prohibits an appeal based on arbitrarily using agency data when it would result in a lower normal cost but using OPM-generated data to avoid factors that could be expected to result in higher costs for employees of that agency. To justify the use of the OPM-generated data on employees in some areas and not others, the agency must show that agency-specific data are unavailable and that the Board would have no reason to believe that the experience for that agency would be significantly different from the employee population at large.

One commenter objected to the minimum number of employees required by § 841.409(a) to file an appeal. The minimum requirements are necessary to assure not only that the appeal will affect a reasonable number of employees, but also to assure that sufficient data are obtained on which reasonable projections can be based.

A few comments did not relate to the appeals procedure. One commenter stated that agencies need to minimize payroll costs, suggesting that this need constitutes a valid consideration in setting normal costs and that major subdivisions of agencies be allowed to seek "single agency rates." Neither suggestion is authorized by statute.

One commenter objected to effecting normal cost percentages as early as 3 months after their publication in the **Federal Register.** Section 841.408 retains the current effective date language. The section attempts to balance agencies' need for advance notice of rate changes with the Fund's need for prompt adjustment of funding levels.

One commenter suggested that the definition of "actuary" in § 841.402 be changed to require membership in the American Academy of Actuaries. The commenter noted that an unrelated

statute uses such a definition. The Board recommended against adopting the suggestion because many Government-employed actuaries are not members of the Academy. OPM has retained the definition used in the interim regulations.

One commenter noted a typographical error in § 841.413(b)(1). These rules correct that error.

In addition, the affected agencies brought to OPM's attention that the interim regulations had ommited "employees under sections 302 and 303 of the Central Intelligence Agency Act of 1964 for Certain Employees" from the list of categories of employees in § 841.403. These are statutory categories of employees and they must have normal cost percentages. Accordingly, OPM has amended § 831.403 to create a new category of employees for section 303 employees when serving abroad and to add section 302 employees to the "Law enforcement officer and firefighter" category of employees. The initial normal cost percentage for the section 303 employees when serving abroad is 22.8 percent. Appendix A to Subpart D of Part 841 has also been amended to reflect these corrections.

II. Employee Deductions and Agency Contributions

The January 16, 1987 interim rules regulated the payment by employing agencies of the cost of benefits for their employees and the related deduction of the applicable percentage from their employees' basic pay.

Both comments were based on misunderstandings of the regulations. One commenter objected to the requirement of § 841.504(h) that agencies make payments to OPM concurrently with issuance of employees' paychecks. The commenter suggested that FERS use the same procedure as under the Civil Service Retirement System. That procedure is that funds are transferred monthly from the employing agency to the retirement fund upon the employing agency's submission of an SF224 to the Department of the Treasury. An accounting adjustment is made on a pay-period basis, when an SF2812 is submitted to OPM. Section 841.504(h) contemplates a continuation of this procedure. The SF2812 is the document relied on by OPM for investment of the Fund's assets. Its submission no later than the employees' payday meets the requirements of § 841.504(h).

One commenter objected that § 841.507 does not address the effective date of FERS deductions for employees who elect to transfer to FERS. This section was not meant to cover transferring employees. Special rules for transferring employees are consolidated in Part 846 of title 5, Code of Federal Regulations. By statute, the effective date of FERS deductions for transferring employees is the first day of the first pay period beginning after the agency receives the election to transfer. See also 5 CFR 846.201(e).

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulations will only affect payment by Federal agencies to OPM of the normal cost of their employees' FERS benefits, and deduction by Federal agencies of the appropriate amount from Government employees' pay.

List of Subjects in 5 CFR Part 841

Administrative practice and procedure, Claims, Diasability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pennsion, Retirement.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is adopting its interim rules on Government Costs (Subpart D of Part 841) published at 51 FR 47185 on December 31, 1986 and its interim rules on Employee Deductions & Government Contributions (Subpart E of Part 841) published at 52 FR 2056 on January 16, 1987, as final rules with the following changes:

PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

Subpart D—Government Costs

1. The authority citation for Subpart D of Part 841 continues to read as follows:

Authority: 5 U.S.C. 8461 and 8423.

2. Section 843.403 is revised to read as follows:

§ 841.403 Categories of employees for computation of normal cost percentages.

Normal cost percentages will be determined for each of the following groups of employees:

(a) Members;

(b) Congressional employees;

(c) Law enforcement officers, firefighters, and employees under section 302 of the Central Intelligence Agency Act of 1964 for Certain Employees;

(d) Air traffic controllers;

(e) Military reserve technicians;

(f) Employees under section 303 of the Central Intelligence Agency Act of 1964 for Certain Employees when serving abroad;

(g) All other employees.

3. Section 841.409 is revised to read as follows:

§ 841.409 Agency appeal right.

(a)(1) An agency with at least 1,000 employees in the general category of employees or 500 employees in any of the special categories may appeal to the Board the normal cost percentage for that category as applied to that agency.

(2) The Secretary of the Treasury or the Postmaster General may request the Board to reconsider a determination of the amount of any supplemental liability due from the Treasury of the United States or the United States Postal Service, respectively.

(b) No appeal will be considered by the Board unless the agency files, no later than 6 months after the date of publication of the notice of normal cost percentages under § 841.407, a petition for appeal that meets *all* the requirements of § 841.410.

(c) No request for reconsideration will be considered by the Board unless the Secretary of the Treasury or the Postmaster General files, no later than 6 months after the date of receipt of the notice of supplemental liability, a request for reconsideration supported by an actuarial report similar to the report described in § 841.410(c).

§ 841.413 [Amended]

4. Section 841.413(b)(1) is amended by removing the word "or" and inserting, in its place, the word "of".

5. Appendix A to Subpart D of Part 841 is revised to read as follows:

Appendix A to Subpart D of Part 841—Table of Normal Cost Percentages

Category of employees	Government-wide normal cost percentages effective at the beginning of the first pay period commencing on or after—	
	January 1, 1987 (percent)	October 1, 1987 (percent)
Members	23.5	20.9
Congressional employees	23.8	20.2

Category of employees	Government-wide normal cost percentages effective at the beginning of the first pay period commencing on or after—	
	January 1, 1987 (percent)	October 1, 1987 (percent)
Law enforcement officers, firefighters, and employees under section 302 of the Central Intelligence Agency Act of 1964 for Certain Employees	31.2	26.7
Air traffic controllers	33.3	28.4
Military reserve technicians	16.0	13.7
Employees under section 303 of the Central Intelligence Agency Act of 1964 for Certain Employees when serving abroad	22.8	19.0
All other employees	16.1	13.8

All normal cost percentages in the above table include employee contributions.

Subpart E—Employee Deductions and Agency Contributions

6. The authority citation for Subpart E of Part 841 continues to read as follows:

Authority: 5 U.S.C. 8461(g); § 841.504 also issued under 5 U.S.C. 8522; § 841.507 also issued under Section 505 of Pub. L. 99-335.

7. In § 841.503, paragraph (b) is revised to read as follows:

§ 841.503 Amounts of employee deductions.

* * * * *

(b) The rate of employee deductions from basic pay for FERS coverage for a Member, law enforcement officer, firefighter, air traffic controller, Congressional employee, or employee under section 302 of the Central Intelligence Agency Act of 1964 for Certain Employees is seven and one-half percent of basic pay, minus the percent of tax which is (or would be) in effect for the payment, for the employee cost of social security.

* * * * *

[FR Doc. 87-15279 Filed 7-2-87; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 842

Federal Employees Retirement System—Basic Annuity; Coverage

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting its interim rules governing employee coverage under the Federal Employees Retirement System (FERS) Act of 1986. These rules identify those employees who are covered by statute, excluded by statute, and excluded by OPM under the discretionary authority conferred by the statute.

EFFECTIVE DATE: August 5, 1987.

FOR FURTHER INFORMATION CONTACT: Robert M. Rosenblatt, (202) 632-4682.

SUPPLEMENTARY INFORMATION: On December 31, 1986, OPM published and requested comments on interim rules (51 FR 47195) to implement the employee coverage provisions of FERS. Eleven comments were received. Nine of them concerned OPM's proposal stated in the supplementary information to extend retirement coverage to employees serving under temporary appointments limited to 1 year or less, after they have performed more than 1 year of continuous service in the same agency. All but one of these commenters opposed OPM's proposal, citing its adverse agency budgetary impact (because agencies must pay the normal retirement cost under FERS) and increased administrative burden for agencies that depend on hiring temporary employees to accommodate workload peaks. Based on those comments, and our further consideration of this matter, OPM will not extend coverage to employees serving under temporary limited appointments.

Of the remaining two comments, one suggested an unnecessary change of wording, and one requested a regulatory remedy for what the commenter believes is a statutory inequity.

Section 842.102(h)(5) has been corrected for clarity. Teachers in Defense Department dependents' schools are covered employees under FERS. However, any Federal service, other than teaching, that they perform between school years is excluded from coverage.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect retirement coverage of Federal employees.

List of Subjects in 5 CFR Part 842

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is adopting its interim rule (Subpart A of Part 842 on coverage) published at 51 FR 47195 on December 31, 1986, as a final rule with the following changes:

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

Subpart A—Coverage

1. The authority citation for Subpart A of Part 842 is amended to read as follows:

Authority: 5 U.S.C. 8461; Section 842.105 also issued under 5 U.S.C. 8402(c)(1).

2. In § 842.102 paragraph (h)(5) is revised to read as follows:

§ 842.102 Definitions.

* * * * *

(h) * * *

(5) Teachers in dependents' schools of the Department of Defense in overseas areas with respect to Federal employment, other than teaching, performed during a recess period between two school years;

* * * * *

[FR Doc. 87-15284 Filed 7-2-87; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Parts 870 and 890

Reconsideration Process for the Federal Employees' Group Life Insurance and the Federal Employees Health Benefits Programs

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is revising its regulations to clarify for individuals and agencies the reconsideration process under the Federal Employees Health Benefits (FEHB) Program and the

Federal Employees' Group Life Insurance (FEGLI) Program. These regulations will distinguish between determinations made by employing offices and those made by OPM.

EFFECTIVE DATE: August 5, 1987.

FOR FURTHER INFORMATION CONTACT: John Ray, (202) 632–4634.

SUPPLEMENTARY INFORMATION: The FEHB and FEGLI regulations currently outline the procedures for individuals to follow in requesting reconsideration of a denial of health benefits or life insurance coverage or a denial of the opportunity to change coverage. Some confusion had been expressed as to what constitutes an "initial decision" by OPM and when that decision is subject to further review within OPM. Therefore, on February 23, 1987, OPM published proposed regulations in the **Federal Register** (52 FR 5466) to clarify the reconsideration process under both programs.

Two written comments were received during the 60-day comment period. One comment, which offered no suggestions for changes, was from a Federal agency. The other comment was from an association of health care plans. The respondent from the association supported OPM's proposed changes and suggested that a specific mailing address at OPM be provided in the regulations for directing requests for reconsideration. That address currently is: Office of Insurance Programs, Program Coordination and Control Division, P.O. Box 436, Washington DC 20044. However, because the address, the P.O. box number, and perhaps even the office having responsibility for reviewing requests for reconsideration might change in the future, we did not provide the specific address in the regulations themselves.

In addition to the written comments received, we received comments from one Federal agency by telephone. The caller noted that in our proposed rulemaking, we stated that OPM makes the initial health benefits entitlement decisions for annuitants, for former spouses who are eligible for immediate annuities, and for former spouses who, if their divorces occurred after their spouses' retirement, have future title to an annuity or portion of an annuity. However, we made no mention of the other retirement systems. While it is true that OPM makes the initial decision for civil service retirement participants and their former spouses, *other* retirement systems, such as the Central Intelligence Agency Retirement and Disability System and the Foreign Service Retirement and Disability System, make those initial decisions for participants of their retirement systems and for their former spouses. We wish to clarify that point at this time.

The changes we are making to the reconsideration regulations should clarify that agencies must make the initial decisions on health benefits and life insurance questions for active employees and former spouses not receiving annuities. OPM and other respective retirement systems will make the initial decisions for annuitants and former spouses who are receiving annuities. Employees, annuitants, and former spouses are entitled to only one reconsideration determination from OPM.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations simply clarify the reconsideration process already in effect.

List of Subjects in 5 CFR Parts 870 and 890

Administrative practice and procedures, Claims, Government employees, Health insurance, Life insurance, Retirement.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM is amending 5 CFR Parts 870 and 890 as follows:

1. The authority citation for Part 870 continues to read as follows:

Authority: 5 U.S.C. 8716.

PART 870—BASIC LIFE INSURANCE

2. In § 870.205, paragraphs (a), (b), and (c) are revised to read as follows:

§ 870.205 Reconsideration.

(a) *Who may file.* An employee or annuitant may request OPM to reconsider an agency decision (for employees) or an initial decision of OPM (for annuitants) denying basic insurance coverage.

(b) *Agency decision.* A request for reconsideration of an agency decision must be filed within 30 calendar days from the date of the written decision stating the right to reconsideration by OPM. OPM may extend the time limit as provided in paragraph (e) of this section. An OPM decision in response to a request for reconsideration of an agency decision is a final decision, not an initial decision as described in paragraph (c) of this section.

(c) *Initial OPM decision.* An OPM decision for an annuitant shall be considered an initial decision as used in paragraph (a) of this section when rendered by OPM in writing and stating the right to reconsideration. However, an initial decision rendered at the highest level of review available within OPM will not be subject to reconsideration.

* * * * *

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

3. The authority citation for Part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; Sec. 890.102 also issued under 5 U.S.C. 1104 and sec. 3(5) of Pub. L. 95–454, 92 Stat. 1112; Sec. 890.301 also issued under 5 U.S.C. 8905(b); Sec. 890.302 also issued under 5 U.S.C. 8901(5) and 5 U.S.C. 8901(9); Sec. 890.701 also issued under 5 U.S.C. 8902(m)(2); Subpart H also issued under Title I of Pub. L. 98–615, 98 Stat. 3195, and Title II of Pub. L. 99–251, 100 Stat. 20.

4. In § 890.104, paragraph (a), (b), and (c) are revised to read as follows:

§ 890.104 Initial decision and reconsideration.

(a) *Who may file.* An employee, annuitant, or former spouse may request OPM to reconsider a decision of an employing officer refusing to permit registration for or change of enrollment or refusing to permit enrollment of an individual as a family member.

(b) *Agency decision.* A request for reconsideration of an agency decision must be filed within 30 calendar days from the date of the written decision stating the right to reconsideration by OPM. The time limit may be extended as provided in paragraph (e) of this section. An OPM decision in response to a request for reconsideration of an agency decision is a final decision, not an initial decision as described in paragraph (c) of this section.

(c) *Initial decision.* An OPM decision for an annuitant or a former spouse shall be considered in initial decision when rendered by OPM in writing and stating the right to reconsideration. However, an initial decision rendered at the highest level of review available within OPM will not be subject to reconsideration.

* * * * *

[FR Doc. 87–15283 Filed 7–2–87; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection; Growers' Referendum Results

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document contains the determination with respect to the referendum on the designation of the consolidated flue-cured tobacco markets of Baxley and Hazlehurst, Georgia. A referendum was conducted during the period of March 9–13, 1987, among tobacco growers who sell their tobacco at auction in Baxley and Hazlehurst, Georgia, to determine producer approval of the designation of these two markets as one consolidated market. Eligible producers voted in favor of the designation. Therefore, for the 1987 and succeeding flue-cured marketing seasons, the Baxley and Hazlehurst, Georgia, tobacco markets shall be designated as and be called Baxley-Hazlehurst. The regulations are herein amended to reflect this new designated market.

EFFECTIVE DATE: August 5, 1987.

SUPPLEMENTARY INFORMATION: A notice was published in the March 5, 1987, issue of the **Federal Register** (52 FR 6831) advising that a referendum would be conducted among flue-cured producers who market their tobacco on the Baxley and Hazlehurst, Georgia, markets to ascertain if such producers favored the designation of the consolidated markets. Baxley and Hazlehurst had been officially and separately designated on June 26, 1942 (7 CFR 4811), under the Tobacco Inspection Act (7 U.S.C. 511 *et seq.*).

The referendum was conducted among producers who were engaged in the production of flue-cured tobacco which they marketed in either Baxley or Hazlehurst, Georgia, during the calendar year 1986. Ballots for the March 9–13 referendum were mailed to 95 producers. Approval required votes in favor of the proposal by two-thirds of the eligible voters who cast valid ballots. The Department received a total of 37 responses: 31 eligible producers voted in favor of the consolidation of the Baxley and Hazlehurst markets; 2 eligible producers voted against the consolidation; and 4 ballots were found to be invalid because they were not mailed on time or because they were not completed.

The notice of referendum announced the determination by the Secretary that the consolidated market of Baxley-Hazlehurst, Georgia, would be designated as a flue-cured tobacco auction market and receive mandatory, Federal grading of tobacco sold at auction for the 1987 and succeeding seasons, subject to the results of the referendum. That determination was based on the evidence and arguments presented at a public hearing held in Baxley, Georgia, on October 28, 1986, pursuant to a notice of hearing published in the **Federal Register** on October 7, 1986 (51 FR 35672). The referendum was held in accordance with the provisions for referenda of the Tobacco Inspection Act as amended (7 U.S.C. 511d) and the regulations set forth in 7 CFR 29.74.

This final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been determined to be a "nonmajor" rule because it does not meet any of the criteria established for major rules under the executive order.

Additionally, in conformance with the provisions of Pub. L. 96–354, the Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. Tobacco warehousemen and producers fall within the confines of "small business" as defined in the Regulatory Flexibility Act. A number of firms which are affected by these adopted regulations do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. The Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 29

Administrative practices and procedures, Tobacco.

For the reasons set forth in the preamble, the regulations in 7 CFR Part 29, Subpart D, are amended as follows:

PART 29—TOBACCO INSPECTION

1. The authority citation for Part 29, Subpart D is added to read as follows:

Authority: Sec. 5, 49 Stat. 732, as amended by sec. 157(a)(1), 95 Stat. 374 (7 U.S.C. 511d).

2. Section 29.8001 is amended by adding an entry (zz) at the end of the table, to read as follows:

§ 29.8001 Designation of tobacco markets.

* * * * *

Territory	Type of tobaccos	Auction Markets	Order of designation	Citation
*	*	*	*	*
(zz) Georgia	Flue-Cured	Baxley-Hazlehurst	July 6, 1987	52 FR 25199

Dated: June 30, 1987.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 87–15264 Filed 7–2–87; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 29

Tobacco Inspection; Growers' Referendum Results

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document contains the determination with respect to the referendum on the designation of the consolidated flue-cured tobacco markets of Darlington and Timmonsville, South Carolina. A referendum was conducted during the period of March 9–13, 1987, among tobacco growers who sell their tobacco at auction in Darlington and Timmonsville, South Carolina, to determine producer approval of the designation of these two markets as one consolidated market. Eligible producers voted in favor of the designation. Therefore, for the 1987 and succeeding flue-cured marketing seasons, the Darlington and Timmonsville, South Carolina, tobacco markets shall be designated as and be called Darlington-Timmonsville. The regulations are herein amended to reflect this new designated market.

EFFECTIVE DATE: August 5, 1987.

SUPPLEMENTARY INFORMATION: A notice was published in the March 5, 1987, issue of the **Federal Register** (52 FR 6832) advising that a referendum would

be conducted among flue-cured producers who market their tobacco on the Darlington and Timmonsville, South Carolina, markets to ascertain if such producers favored the designation of the consolidated markets. Darlington had been officially designated on July 1, 1936; as amended July 15, 1936 (1 FR 842, 1 FR 968), and Timmonsville had been officially designated on August 16, 1941 (6 FR 4111), under the Tobacco Inspection Act (7 U.S.C. 511 *et seq.*).

The referendum was conducted among producers who were engaged in the production of flue-cured tobacco which they marketed in either Darlington or Timmonsville, South Carolina, during the calendar year 1986. Ballots for the March 9–13 referendum were mailed to 543 producers. Approval required votes in favor of the proposal by two-thirds of the eligible voters who cast valid ballots. The Department received a total of 223 responses: 190 eligible producers voted in favor of the consolidation of the Darlington and Timmonsville markets, 11 eligible producers voted against the consolidation, and 22 ballots were found to be invalid because they were not mailed on time or because they were not completed.

This notice of referendum announced the determination by the Secretary that the consolidated market of Darlington-Timmonsville, South Carolina, would be designated as a flue-cured tobacco auction market and receive mandatory, Federal grading of tobacco sold at auction for the 1987 and succeeding seasons, subject to the results of the referendum. That determination was based on the evidence and arguments presented at a public hearing held in Darlington, South Carolina, on October 29, 1986, pursuant to a notice of hearing published in the **Federal Register** on October 7, 1986 (51 FR 35672). The referendum was held in accordance with the provisions for referenda of the Tobacco Inspection Act, as amended (7 U.S.C. 511d) and the regulations set forth in 7 CFR 29.74.

This final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been determined to be a "nonmajor" rule because it does not meet any of the criteria established for major rules under the executive order.

Additionally, in conformance with the provisions of Public Law 96–354, the Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. Tobacco warehousemen and producers fall within the confines of "small business" as defined in the Regulatory Flexibility Act. A number of firms which are affected by these adopted regulations do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. The Administrator of the Agricultural Marketing Service has determined that the rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 29

Administrative practices and procedures, Tobacco.

For the reasons set forth in the preamble, the regulations in 7 CFR Part 29, Subpart D, are amended as follows:

PART 29—TOBACCO INSPECTION

1. The authority citation for Part 29, Subpart D, continues to read as follows:

Authority: Sec. 5, 49 Stat. 732, as amended by sec. 157(a)(1), 95 Stat. 374 (7 U.S.C. 511d).

2. Section 29.8001 is amended by adding an entry (aaa) at the end of the table to read as follows:

§ 29.8001 Designation of tobacco markets.

* * * * *

Territory	Types of tobaccos	Auction markets	Order of designation	Citation
*	*	*	*	*
(aaa) South Carolina	Flue-Cured	Darlington-Timmonsville	July 6, 1987	52 FR 25200

Dated: June 30, 1987.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 87–15281 Filed 7–2–87; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 910

[Lemon Regulation 568]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 568 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 400,000 cartons during the period July 5 through July 11, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 568 (§ 910.868) is effective for the period July 5 through July 11, 1987.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447–5697.

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

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

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

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

This regulation is consistent with the marketing policy for 1986–87. The committee met publicly on June 30, 1987, in Los Angeles, California, to consider

the current and prospective conditions of supply and demand and recommended by an 11 to 1 vote (with one abstention) a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market is very active.

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

List of Subjects in 7 CFR Part 910

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

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

2. Section 910.868 added to read as follows:

§ 910.868 Lemon Regulation 568.

The quantity of lemons grown in California and Arizona which may be handled during the period July 5, 1987, through July 11, 1987, is established at 400,000 cartons.

Dated: July 1, 1987.

William J. Doyle,

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

[FR Doc. 87–15360 Filed 7–2–87; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 929

Cranberries Grown in the State of Massachusetts et al.; Increase in Base Quantity Reserve

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This final rule will increase the base quantity reserve for the 1987–88 crop year from the required minimum of 2.0 percent to 7.16 percent of the total base quantities currently issued to cranberry growers, in order to update and expand base quantities for the benefit of growers. This will help to facilitate the appropriate and equitable operation of the cranberry marketing order.

EFFECTIVE DATE: August 5, 1987.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and 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 considered the economic impact of this rule on 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 and rules issued thereunder, pursuant to the Agricultural Marketing Agreement Act of 1937, (the "Act", 7 U.S.C. 601–674), as amended, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that 31 handlers of cranberries under the marketing order would be subject to regulation during the course of the current season. There are about 950 producers of cranberries in the regulated area. Small agricultural produces have been defined by the Small Business Administration (13 CFR 121.2 (1985)) as those having average annual gross revenues for the last three years of less than $100,000, and agricultural service firms, which would include handlers, have been defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of cranberries may be characterized as small entities. The estimated average annual crop value of production for the past three years for cranberries is $175,382,333.

The impact of this regulation will be on growers and will not be significant because the change represents a relaxation of restrictions by increasing the total amount of base quantity available to growers. The increase in the amount of base quantity to be issued represents the total amount of base quantity to which qualified new and existing growers are entitled for the 1987–88 crop year. The committee intends to distribute base quantity reserve to approximately 37 new growers and 332 existing growers. Any potential costs to growers will be significantly offset when compared to the potential benefits of greater and more equitable allocation of allotment bases to growers. This final rule will not alter any reporting or recordkeeping requirements currently in effect.

Based on the available information, the Administrator of the Agricultural Marketing Service has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

A proposed rule on this amendment was published in the **Federal Register** on April 29, 1987, (52 FR 15511) inviting written comments through May 29, 1987. No comments were received.

This final action will amend § 929.153(a) of the Subpart—Rules and Regulations of the Cranberry Marketing Order (7 CFR Part 929). The order regulates the handling cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The agreement and order are effective under the Act.

Each year prior to May 1, the committee considers its marketing policy for the coming season and estimates a marketable quantity of cranberries. Such quantity is the amount of cranberries necessary to meet the season's total market demand and provide for an adequate carryover of cranberries to the next season. If the Secretary finds from a recommendation of the committee, or from other available information, that limiting the quantity of cranberries that may be purchased or handled on behalf of growers would tend to effectuate the declared policy of the Act, the Secretary shall determine and establish the marketable quantity for that crop year. The marketable quantity shall be apportioned among all eligible growers by applying an allotment percentage to each grower's base quantity pursuant to § 929.48.

Such base quantities are issued to growers: (a) Based on their sales during the period 1968–69 through 1973–74; (b) as a result of transfers of base quantities from other growers; or (c) as part of an annual reserve of at least 2 percent of

the total base quantities. The reserve is used for the issuance of base quantities to new growers and adjustments in base quantities for existing growers, with 25 percent being made available for new growers and 75 percent available for adjustments for existing growers. Any unallocated portion of the 25 percent available to new growers may, at the discretion of the committee, be prorated among eligible existing growers on an equitable basis.

On February 25, 1987, the Cranberry Marketing Committee held its annual winter meeting to formulate its marketing policy for the 1987–88 crop year. It determined that implementation of § 929.49 (the establishment of a marketable quantity and annual allotment) was not warranted. However, the committee noted that cranberry production was projected to exceed the total of all allotment bases and recommended that additional base be issued to all qualified new and existing growers to the full amount to which each grower is entitled, contingent on the grower's demonstrated ability to produce and sell cranberries. The increase will make additional base quantity available to new and existing growers by increasing the 2.0 percent minimum base quantity reserve, currently provided, to 7.16 percent. The committee said this change will also aid in the updating of base quantities which will be necessary for any future establishment of a marketable quantity and annual allotment.

After consideration of all relevant matter presented (the information and recommendation submitted by the committee and other available information), it is further found that this action, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 929

Marketing agreements and orders, Cranberries, Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnestoa, Oregon, Washington, and New York.

For the reasons set forth in the preamble, 7 CFR Part 929 is amended as follows:

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

1. The authority citation for 7 CFR Part 929 continues to read as follows:

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

2. Section 929.153(a) is amended by revising the proviso in paragraph (a) to read as follows:

§ 929.153 Base quantity reserve.

(a) *Establishment.* An annual reserve base quantity equal to 2 percent of total base quantities is hereby established: *Provided,* That, for the 1987–88 crop year, the reserve base quantity shall be 7.16 percent.

* * * * *

Dated: June 29, 1987.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 87–15262 Filed 7–2–87; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 967 and 985

Expenses and Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes assessment rates under Marketing Orders 967 and 985 for the 1987–88 fiscal year for each order. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATES: August 1, 1987–July 31, 1988 (§ 967.223); June 1, 1987–May 31, 1988 (§ 985.307).

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Maketing Order Administration Branch, F&V, AMS, USDA, Washington DC 20250, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and 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 considered the economic impact on 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. 601–674), and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are an estimated 7 handlers of Florida celery and 9 handlers of Far West spearmint oil who will be subject to regulation under these marketing orders during the course of the respective season for each specified commodity. 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 $100,000, and agricultural service firms, which include handlers, are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers may be classified as small entities.

Each marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable commodities handled from the beginning of such year. An annual budget of expenses is prepared by each administrative committee and submitted to the Department of Agriculture for approval. The members of administrative committees are handlers and producers of the regulated commodities. This is appropriate because they are familiar with the committees' needs and with the costs for goods, services and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings, thus all directly affected persons have an opportunity to participate and provide input.

While this action may impose some additional costs on handlers, including small entities, the costs are in the form of uniform assessments on all handlers which do not impose a significant economic impact on the small entities involved.

Based on available information, the Administrator of the Agricultural Marketing Service has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate recommended by each committee 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 committees' expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committees shortly before a season starts and expenses are incurred on a continuous basis, therefore budget and

assessment rate approvals must be expedited in order that the committees will have funds to pay their expenses.

Based on the foregoing, the Secretary finds that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and to engage in public rulemaking procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is found that the specified expenses and assessment rates will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Parts 967 and 985

Marketing agreements and orders, Celery (Florida), Spearmint oil (Far West).

For the reasons set forth in the preamble, §§ 967.223 and 985.307 are added as follows:

1. The authority citation for 7 CFR Parts 967 and 985 continues to read as follows:

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

2. Sections §§ 967.223 and 985.307 are added to read as follows (the following sections prescribe the annual expenses and assessment rates and will not be published in the Code of Federal Regulations):

PART 967—CELERY GROWN IN FLORIDA

§ 967.223 Expenses and assessment rate.

Expenses of $126,000 by the Florida Celery Committee are authorized, and an assessment rate of $0.02 per crate of celery is established for the fiscal year ending July 31, 1988. Unexpended funds may be carried over as a reserve.

PART 985—SPEARMINT OIL PRODUCED IN THE FAR WEST

§ 985.307 Expenses and assessment rate.

Expenses of $166,000 by the Far West Spearmint Oil Administrative Committee are authorized, and an assessment rate of $0.08 per pound of spearmint oil is established for the fiscal year ending May 31, 1988. Unexpended funds may be carried over as a reserve.

Dated: June 29, 1987.

William J. Doyle,

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

[FR Doc. 87–15263 Filed 7–2–87; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1065

Milk in the Nebraska-Western Iowa Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: For the months of June through August 1987 this action suspends the requirement that a cooperative association deliver 51 percent or more of the producer milk of members of the association to pool distributing plants of other handlers in order to qualify a supply plant operated by the cooperative association for pooling under the Nebraska-Western Iowa order. The action was requested by a cooperative association that represents producers who supply milk for the market. The action is necessary to assure that the association's member dairy farmers who have regularly supplied the market's fluid needs will continue to share in the market's fluid milk sales.

EFFECTIVE DATE: July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Suspension: Issued June 2, 1987; published June 8, 1987 (52 FR 21560).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on June 8, 1987 (52 FR 21560) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal in the notice, and other available information, it is hereby found and determined that for the months of June through August 1987 the following provisions of the order do not tend to effectuate the declared policy of the Act: § 1065.7(c), the words "51 percent or more of the".

Statement of Consideration

This action suspends, for the months of June through August 1987, the requirement that a cooperative association deliver 51 percent or more of the producer milk of members of the association to pool distributing plants of other handlers in order to qualify a supply plant operated by the cooperative association for pooling. The suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents a large number of the market's producers.

The cooperative stated that the suspension is necessary because the percentage of the cooperative's member milk production shipped to distributing plants is expected to fall below 51 percent. For the months of January through April 1987, Mid-Am production pooled on the Nebraska-Western Iowa order was 2 percent lower than for the same period of 1986. For the market as a whole, pooled producer milk decreased 1 percent during January through April 1987 from the same period in 1986, while Class I sales also declined by 1 percent. According to the cooperative, receipts at pool distributing plants also have declined.

Mid-Am stated that with the decrease in Class I sales that will accompany the closing of schools for the summer the percentage of the cooperative's producer milk shipped to Nebraska-Western Iowa pool distributing plants is likely to fall below 51 percent. As alternatives to depooling some milk of its member producers, the cooperative would have to attempt to pool Nebraska-Western Iowa producer milk on another Federal order to ship milk to distributing plants where the milk would be received, loaded back into the truck and shipped to a manufacturing plant. Either alternative would require the cooperative to move milk in an uneconomic and inefficient manner solely to maintain the pool status of producers who historically have supplied the fluid needs of the Nebraska-Western Iowa marketing area.

In comments filed in support of the suspension, Mid-Am stated that marketing conditions in the Nebraska-Western Iowa marketing area are about the same as they were during 1986 when the provision in question was suspended during the same months.

No comments opposing the proposed action were received.

Although milk production is slightly below year-earlier levels, more than 51 percent of the available milk supplies apparently will have to be shipped to manufacturing plants for surplus use. In view of these circumstances, it is concluded that the 51 percent delivery requirement for cooperative-operated supply plants pooled under the Nebraska-Western Iowa milk order should be suspended for the months of June through August 1987 to ensure the orderly marketing of milk supplies. The suspension will prevent uneconomic and inefficient movements of milk solely to maintain the pool status of producers who historically have supplied the fluid milk needs of the Nebraska-Western Iowa marketing area.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that it will ensure that dairy farmers who are supplying the market's fluid needs will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning the suspension. No comments were filed in opposition to this action.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of § 1065.7(c) of the Nebraska-Western Iowa order are hereby suspended for the months of June through August 1987, as follows:

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. The authority citation for 7 CFR Part 1065 continues to read as follows:

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

§ 1065.7 [Amended]

2. In § 1065.7(c), the words "51 percent or more of the" are suspended for the months of June through August 1987.

Signed at Washington, DC, on June 29, 1987.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 87–15265 Filed 7–2–87; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–CE–09; Amdt. 39–5664]

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Models EMB–110P1 and EMB–110P2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to EMBRAER Models EMB–110P1 and EMB–110P2 airplanes, which requires incorporation of Revision 29 to the Pilot's Operating Handbook (POH). This revision deletes the Configuration Deviation List (CDL) issued by Revision 28 to the POH. This action will preclude operations which are contrary to the FAA approved Airplane Flight Manual/Pilot's Operating Handbook (AFM/POH) "LIMITATIONS" section.

DATES: *Effective Date:* August 6, 1987.

Compliance: Within the next 30 days after the effective date of this AD.

ADDRESSES: EMBRAER Publication No. T.P.–110P1/176, Revision 29, dated November 3, 1986, applicable to this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343–CEP, 12.200 Sao Jose dos Campos, Sao Paulo, Brazil. This information may be examined at the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis A. Jackson, ACE–120A, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, Suite 210, 1699 Phoenix Parkway, Atlanta, Georgia 30349; Telephone (404) 991–2910.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring incorporation of Revision 29 to Publication No. T.P.–110P1/176 dated November 29, 1986, which deletes Supplement No. 36 from the Pilot's Operating Handbook (POH) of the EMBRAER EMB–110P1 and EMB–110P2 airplanes was published in the **Federal Register** on April 2, 1987, 52 FR 10581. The proposal resulted from EMBRAER having issued Revision No. 28 to Publication No. T.P.–110P1/176 on September 12, 1986. This revision incorporated Supplement No. 36 to Pilot's Operating Handbook and the Brazilian Civil Airworthiness Authority, the Centro Tecnico Aerospacial (CTA) approved this Airplane Flight Manual Supplement for EMBRAER EMB–110P1/P2 airplanes. This Supplement contained limitations for operation of the EMB–110P1 and EMB–110P2 airplanes without certain secondary airframe and engine parts.

The FAA has determined that provisions do not exist in the Federal Aviation Regulations for approving a CDL for small airplanes, since it alters the FAA approved AFM/POH "LIMITATIONS" section on flight-by-flight basis. The EMBRAER-issued CDL contains such limitations which differ from those contained in the FAA approved AFM/POH "LIMITATIONS" section. EMBRAER was advised of this fact. Consequently, EMBRAER issued Revision No. 29 to Publication No. T.P.–110P1/176 on November 29, 1986, which deleted Supplement No. 36 from the POH.

Based on the foregoing, the FAA considers that an AD is required to ensure that all operators have removed Supplement No. 36 from their flight manuals. Accordingly, the FAA proposed an amendment to Part 39 of the FAR to include an AD on this subject.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Accordingly, the proposal is adopted without change. The FAA has determined that this regulation involves 124 airplanes.

The cost of complying with the proposed AD is negligible to all operators and, therefore, will not be a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies

and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Applies to Models EMB–110P1 and EMB–110P2 (all serial numbers) airplanes certificated in any category. Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To preclude operations with configurations which are contrary to the FAA approved Airplane Flight Manual/Pilot's Operating Handbook (AFM/POH) "LIMITATIONS" section, accomplish the following:

(a) Within the next 30 days after the effective date of this AD, revise the EMB–110 AFM/POH by incorporating Revision 29, dated November 3, 1986, to EMBRAER Publication No. T.P.–110P1/176, "Pilot's Operating Handbook and CTA Approved Airplane Flight Manual Supplement for EMBRAER EMB–110P1/P2."

(b) The requirement of paragraph (a) of this AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations (FAR) on any airplane owned or operated by him which is not used under Part 121, 127, 129, or 135. The person accomplishing this action must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Atlanta Aircraft Certification Office, FAA, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia 30349; Telephone (404) 991–2910.

All persons affected by this directive may obtain a copy of the document referred to herein upon request to EMBRAER, P.O. Box 343–CE, 12.200 Sao Jose dos Campos, Sao Paulo, Brazil; or may examine the document referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on August 6, 1987.

Issued in Kansas City, Missouri, on June 22, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87–15128 Filed 7–2–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–CE–08–AD; Amdt. 39–5668]

Airworthiness Directives; Fairchild Aircraft Corporation Models SA26–T, SA26–AT, SA226–T, SA226–T(B), SA226–TC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Fairchild Aircraft Model SA26–T, SA26–AT, SA226–T, SA226–T(B), SA226–AT, and SA226–TC airplanes, which requires modification of the landing gear selector lever system and a one-time inspection and removal of center pedestal map, chart, or approach plate holders. Service history has shown that the landing gear selector lever mechanism is subject to wear, thereby allowing the selector lever to be displaced from the selected position and the chart, map, or approach plate holders can obstruct the view of the pedestal switches and landing gear selector lever. The AD will provide clear access to the landing gear selector lever and will prevent inadvertent gear retractions.

DATES: *Effective Date*: August 10, 1987.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Fairchild Aircraft Corporation Service Bulletin (S/B) for the Model SA26, S/B 26–32–30–39, dated February 13, 1987, and for the Model SA226, S/B 226–32–048, revised February 13, 1987, applicable to this AD may be obtained from Fairchild Aircraft Corporation, P.O. Box 790490, San Antonio, Texas 78279–0490; or may be examined at the Rules Docket at the address below: FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106, between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Bannister, Airplane Certification Branch, ASW–150, Southwest Region, FAA, Fort Worth, Texas 76193–0150; Telephone (817) 624–5163.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring installation of a new landing gear selector lever which incorporates material which is less prone to wear, has deeper up and down detents, incorporates a new cam mechanism that assures that the gear selector is either up or down, and requires an inspection of the center pedestal to determine that no storage means or brackets for storage of maps, charts, and approach plates are installed on certain Fairchild Aircraft Corporation Model SA26 and SA226 airplanes was published in the **Federal Register** on March 23, 1987 (52 FR 9181). The proposal resulted from at least seven accidents since 1969 involving inadvertent landing gear actuation. Subsequent investigations revealed that the landing gear selector lever detents are subject to wear and, once worn, the selector lever can easily be displaced from the selected position. Fairchild Aircraft Corporation issued S/B 226–32–048 in March 1984 that alerted owners/operators of SA226 aircraft of the availability of improved detents made of a material that would be less subject to wear. The parts were offered to the operators at no charge; however, very few operators took advantage of the S/B. As a result of National Transportation Safety Board Recommendations, the FAA has evaluated the location and design of the landing gear selector. The FAA has found that the landing gear selection means for positive latching is susceptible to wear and that it is possible to place the gear handle in an intermediate position so that it is neither in the up nor down position. In addition, some Fairchild airplanes that were evaluated had modifications to the sides of the center pedestal that provided storage for charts, maps, or approach plates.

These storage provisions are not part of the approved Fairchild type design and when used for the storage of charts, maps, etc., block the clear view of pedestal controls and switches and can also cause the inadvertent actuation of various controls and switches on the pedestal.

Interested persons have been afforded an opportunity to comment on the proposal. Only one commenter responded. The one commenter brought to the FAA's attention that there are certain Fairchild model airplanes

included in the proposal that do not incorporate the landing gear selector mechanism described in the notice, and in addition, there is no service history reflecting inadvertent landing gear actuation on those airplanes with those different selector lever mechanisms. FAA concurs with the comment. There were a limited number of Fairchild SA226-T(B), SA226-AT, and SA226-TC models produced which do not incorporate the landing gear selector lever mechanism in question. Therefore, FAA will except these certain serial numbered airplanes from having to comply with the AD; otherwise the AD is being adopted as set forth in the proposal.

There was no comment with regard to cost determination for the modification; however, it was brought to the FAA's attention that Fairchild has substantially decreased the price of the modification kit, therefore, reducing the overall cost to the operators of the affected aircraft. The FAA has determined that this regulation only involves 450 airplanes at an approximate one-time cost of $200 for each airplane, with a total one-time fleet cost of $90,000.

Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Fairchild Aircraft Corporation: Applies to Model SA26-T, SA26-AT, SA226-T, SA226-T(B), SA226-AT, SA226-TC (all serial numbers) except SA226-T(B), S/N T-276, T-283 through T-297, SA226-AT, S/N AT-062E through AT-069 and SA226-TC S/N TC-247 through TC-279; airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished. To prevent inadvertent landing gear selector movement, accomplish the following:

(a) On or before December 1, 1987, accomplish the following:

(1) Visually inspect the sides and end of the center pedestal for installation of brackets, holders, or any sort of provision for the storage of maps, charts, and approach charts and, prior to further flight, remove any such devices.

(2) Modify the landing gear selector lever in accordance with Fairchild Aircraft Corporation S/B 26-32-30-39, dated February 13, 1987 (for the Model SA26 airplanes), or S/B 226-32-048, revision dated February 13, 1987 (for the Model SA226 airplanes), as applicable.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Airplane Certification Branch, ASW-150, FAA, Southwest Regional Office, Fort Worth, Texas 76193-0150, Telephone (817) 624-5150.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Fairchild Aircraft Corporation, P.O. Box 790490, San Antonio, Texas 78279-0490; or may examine the documents referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on August 10, 1987.

Issued in Kansas City, Missouri, on June 24, 1987.

James O. Robinson,

Acting Director, Central Region.

[FR Doc. 87-15133 Filed 7-2-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-12-AD; Amdt. 39-5661]

Airworthiness Directives: The de Havilland Aircraft Company of Canada, A Division of Boeing of Canada, Ltd., Model DHC-7 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to de Havilland Model DHC-7 series airplanes, which currently requires a change to the airplane flight manual (AFM) to reflect a higher threshold temperature for the use of ice protection procedures, and requires engaging continuous ignition in order to prevent the potential for engine flameouts in icing conditions. This amendment revises the continuous ignition requirement and clarifies the icing threshold temperatures in order to maintain safe operation in potential icing conditions.

EFFECTIVE DATE: August 3, 1987.

ADDRESSES: The applicable service information may be obtained from The de Havilland Aircraft Company of Canada, A Division of Boeing of Canada, Ltd., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond J. O'Neill, Propulsion Branch, ANE-174, FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-7421.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to revise AD 84-24-51, Amendment 39-5030 (50 FR 13553; April 5, 1985), to require a revision to the de Havilland Model DHC-7 airplane flight manual (AFM) regarding operations during icing conditions, was published in the Federal Register on May 6, 1987 (52 FR 16852).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the notice.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 42 airplanes of U.S. registry will be affected by this AD. By lowering the ambient temperature below that which continuous ignition must be used to the original value specified in the AFM (prior to issuance of AD 84-24-51), operators benefit from a relieved economic burden due to reduced continuous ignition use. The only additional cost to operators will be that associated with revising pages of the FAA-approved AFM.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because of the minimal cost of compliance per airplane (explained above). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 32—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

2. By revising Airworthiness Directive (AD) 84–24–51, Amendment 39–5030 (50 FR 13553; April 5, 1985), as follows:

The De Havilland Aircraft Company of Canada, a Division of Boeing of Canada, Ltd.: Applies to all Model DHC–7 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To ensure correct operation of the airplane during flight in icing conditions, accomplish the following:

A. Within 60 days after the effective date of this AD, revise Section 2 of the FAA-approved DHC–7 Airplane Flight Manual (AFM), Revision 29, dated July 26, 1985, as follows, and provide this information to the flight crews:

1. Change the title of paragraph 2.21 to read: "2.21 Flight in Icing Conditions (Visible Moisture and/or Precipitation at Temperatures Below +5 °C True Outside Air Temperature or +13 °C Indicated Outside Air Temperature When Correction Chart Figure 4-4-4 is Not Used)."

2. Change item 8 in paragraph 2.21.1 to read: "8. Ignition switch—Manual (if required)."

3. Add the following note at the end of paragraph 2.21.1:

"**Note:** Manual (continuous) engine ignition is an automatic function when AIRFRAME—FAST/SLW switch is at fast or slow position."

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

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to de Havilland Aircraft Company of Canada, A Division of Boeing of Canada, Ltd., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

This amends Amendment 39–5030.

This amendment becomes effective August 3, 1987.

Issued in Seattle, Washington, on June 19, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–15140 Filed 7–2–87; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 70479–7079]

Frequency Synthesizers; Clarification of Export Controls

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: Export Administration maintains the Commodity Control List (CCL), which contains all items controlled for export by the Department of Commerce. This rule, which neither expands nor limits the provisions of the Export Administration Regulations, adds clarifying language to entry 1531A of the CCL, controlling certain types of frequency synthesizers.

The clarification states that land mobile ground communications equipment in the 420 to 470 MHz band is not controlled for export if the transmitter power of the mobile unit is 50 watts *or less* or if the power of the fixed unit is 300 watts *or less.*

EFFECTIVE DATE: This rule is effective July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Monty Baltas, Telecommunications Technology Center, Export Administration, Telephone: (202) 377–0730.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. (553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Vincent Greenwald, Office of Technology and Policy Analysis, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule involves a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0625–0001.

List of Subjects in 15 CFR Part 399

Exports, Reporting and recordkeeping requirements.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

1. The authority citation for Part 399 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 *et seq.*, E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 (October 2, 1986); E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

§ 399.1 [Amended]

2. In the Commodity Control List (Supplement No. 1 to 399.1), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1531A is amended by adding in paragraph (e)(3)(ii) the words "or less" after the words "50 watts" and after the words "300 watts".

Dated: June 30, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87–15153 Filed 7–2–87; 8:45 am]

BILLING CODE 3510–DT–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 201

[Release Nos. 33–6723; 34–24637; 35–24417; 39–2100; IC–15821; IA–1073]

Commission Rules of Practice

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is correcting Commission Rule of Practice 6(b), 17 CFR 201.6(b).

EFFECTIVE DATE: July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549, (202) 272–2600.

SUPPLEMENTARY INFORMATION: The Commission Rule of Practice 6(b) concerning service of notice for proceedings and hearings is incorrect as it appears in the current provisions of the Code of Federal Regulations. In order to clarify the requirements of Rule 6(b), it is set forth in its entirety.

The foregoing action relates solely to a correction of the rules of agency procedure and practice; therefore, notice and request for comment pursuant to the Administrative Procedure Act, 5 U.S.C. 551, *et seq.* are unnecessary. Moreover, because the sentence to be added was inadvertently deleted from the rule in 1978 and the Commission has been acting under the presumption that the provision was in place, the Commission finds good cause to make 17 CFR 201.6(b), as corrected, effective July 6, 1987.

List of Subjects in 17 CFR Part 201

Administrative Practice and Procedure, Investigations, Securities

PART 201—[AMENDED]

Text of Amendment

Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 201 is amended by adding the following citation:

Authority: Secs. 19, 23, 48 Stat. 85, as amended, 901, as amended, sec. 20, 49 Stat. 1173, secs. 28, 211, 54 Stat. 841, 855; 15 U.S.C. 77s, 78w, 79t, 77sss, 80a–37, 80b–11 * * * § 201.6 also issued under 15 U.S.C. 77h, 77ttt, 78d–1, 78d–2, 78v, 79s, 80a–40, 80b–12.

2. In § 201.6 paragraph (b) is revised as follows:

§ 201.6 [Amended]

* * * * *

(b) *Notice of hearing; service of notice.* The time and place for any hearing in a proceeding shall be fixed with due regard for the public interest and the convenience and necessity of the parties, the participants or their representatives. It is the policy of the Commission that in a proceeding under any provision of the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940 (except section 9(b) thereof), section 206A of the Investment Advisers Act of 1940, section 8 of the Securities Act of 1933, or sections 305 or 307 of the Trust Indenture Act of 1939, the hearing should normally be held in Washington, D.C. Each party or person entitled to notice shall be given notice of hearing a reasonable time in advance of the hearing, and such notice may be given by personal service, by confirmed telegraphic notice or, in any proceedings other than those pursuant to section 8 of the Securities Act of 1933 or section 305 or 307 of the Trust Indenture Act of 1939, by registered mail or certified mail, addressed to his last known business or residence address or to the address of his agent for service.

* * * * *

By the Commission.

June 24, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–14929 Filed 7–2–87; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 11

[Docket Nos. RM86–2–002, –003, –004]

Revision of the Billing Procedures for Annual Charges for Administering Part I of the Federal Power Act and to the Methodology for Assessing Federal Land Use Charges; Order Granting Rehearing for Purpose of Further Consideration

Issued: June 30, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing for further consideration.

SUMMARY: On May 8, 1987, the Federal Energy Regulatory Commission issued a final rule to revise the billing procedures for annual charges for administering Part I of the Federal Power Act, the billing procedures for charges for Federal dam and land use, and the methodology for assessing Federal land use charges.

In this order, the Commission grants rehearing of its decision solely for the purpose of further consideration.

EFFECTIVE DATE: June 30, 1987.

FOR FURTHER INFORMATION CONTACT: James R. Keegan, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8542.

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

On May 8, 1987, the Commission issued a final rule that amended Part 11 of its regulations under the Federal Power Act (Act). The final rule revised the billing procedures for annual charges for administering Part I of the Act, the billing procedures for charges for Federal dam and land use, and the methodology for assessing Federal land use charges.[1]

Pursuant to 18 CFR 385.713 (1986), the Edison Electric Institute, Southern California Edison Company, and Pacific Gas and Electric filed separate requests for rehearing of the above-captioned proceeding. In order to review more fully the arguments raised, the Commission grants rehearing of the order solely for the purpose of further

[1] Order 469, 52 FR 18201 (May 14, 1987) III FERC Stats. and Regs. ¶30,741 (1987).

consideration. This action does not constitute a grant or denial of the requests on their merit in whole or in part.

The Commission orders:

Rehearing of the Commission order in the above-captioned proceeding is granted solely for the purpose of further consideration. Because this order is not a final order on rehearing, no response to the requests will be entertained by the Commission. *See* § 385.713(d) (1986) of the Commission's rules of practice and procedure.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15192 Filed 7-2-87; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of D&C Red No. 33 and D&C Red No. 36; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Red No. 33 and D&C Red No. 36 for use as color additives in drugs and cosmetics. The new closing date will be September 4, 1987. FDA has decided that this brief postponement is necessary to provide time for the preparation of documents that will explain the bases for the agency's decisions concerning the conditions under which these color additives may be safely used.

EFFECTIVE DATE: Effective July 6, 1987, the new closing date for D&C Red No. 33 and D&C Red No. 36 will be September 4, 1987.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of July 6, 1987, for the provisional listing of D&C Red No. 33 and D&C Red No. 36 by regulation published in the **Federal Register** of May 1, 1987 (52 FR 15945). FDA extended the closing date for these color additives until July 6, 1987, to provide time for completion of the agency's review and evaluation of the data concerning the drug and cosmetic uses of these color additives, and for publication of a regulation in the **Federal Register** regarding the agency's final decision on the petitions for the permanent listing of these color additives. The regulation set forth below will postpone the July 6, 1987, closing date for the provisional listing of these color additives until September 4, 1987.

FDA has essentially completed its review and evaluation of available information relevant to the use of these color additives in drugs and cosmetics. The agency has concluded that the drug and cosmetic uses of D&C Red No. 33 and D&C Red No. 36 are safe. Thus, the agency has decided to permanently list the color additives for these uses. New certification specifications are also being developed for these color additives.

The agency has not yet completed documents fully describing the bases for each of these decisions and setting forth detailed conditions for use. Therefore, FDA believes that it is reasonable to postpone the closing date for these color additives until September 4, 1987, to provide time for the preparation and publication of appropriate **Federal Register** documents. The agency intends to publish these documents as soon as possible. FDA concludes that this short extension is consistent with the public health and the standards set forth for continuation of provisional listing in *McIlwain* v. *Hayes*, 690 F.2d 1041 (D.C. Cir. 1982).

Because of the shortness of time until the July 6, 1987, closing date, FDA concludes that notice and public procedure on this regulation are impracticable and that good cause exists for issuing the postponement as a final rule and for an effective date of July 6, 1987. This regulation will permit the uninterrupted use of these color additives until further action is taken. In accordance with 5 U.S.C. 553 (b) and (d) (1) and (3), this postponement is issued as a final regulation, effective on July 6, 1987.

List of Subjects in 21 CFR Part 81

Color additives, Cosmetics, Drugs.

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

1. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055-1056 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

2. In § 81.1 *Provisional lists of color additives* by revising the closing dates for "D&C Red No. 33" and "D&C Red No. 36" appearing in the table in paragraph (b) to read "September 4, 1987".

§ 81.27 [Amended]

3. In § 81.27 *Conditions of provisional listing* by revising the closing dates for "D&C Red No. 33" and "D&C Red No. 36" in paragraph (d), introductory text table, to read "September 4, 1987".

Dated: June 26, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-14988 Filed 7-2-87; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 182 and 184

[Docket No. 81N-0312]

Beta-Carotene; Affirmation as Generally Recognized as Safe

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that *beta*-carotene is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective August 5, 1987. The Director of the Federal Register approves the incorporation by reference of a certain publication in 21 CFR 184.1245 effective as of August 5, 1987.

ADDRESSES: Copies of the scientific literature review and the report of the Select Committee on GRAS Substances on *beta*-carotene have been made available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents are available for purchase from the National

Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161.

FOR FURTHER INFORMATION CONTACT: Donna A. Dennis, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 26, 1982 (47 FR 47435), FDA published a proposal to affirm that *beta*-carotene is GRAS for use as a direct human food ingredient. FDA published this proposal in accordance with the announced review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review and the report of the Select Committee on GRAS Substances (the Select Committee) on *beta*-carotene have been made available for public review in the Dockets Management Branch (HFA–305) (address above). Copies of these documents are available for purchase from the National Technical Information Service.

In addition to proposing to affirm the GRAS status of *beta*-carotene, FDA gave public notice that it was unaware of any prior-sanctioned food uses for this ingredient other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of this ingredient recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181), or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for *beta*-carotene were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of this ingredient under conditions different from those set forth in this final rule has been waived.

FDA received two comments in response to the proposed rule. A summary of these comments and the agency's responses follow:

One comment questioned the effect of the agency's proposal for *beta*-carotene on carrot oil as described in § 73.300 *Carrot oil* (21 CFR 73.300) and § 182.20 *Essential oils, oleoresins (solvent free), and natural extractives including distillates* (21 CFR 182.20). The comment noted that its product, carrot oil, is a mixture of carotenoids and is produced by extraction from edible carrots and is not synthetically manufactured.

The agency advises that carrot oil covered by 21 CFR 73.300 and 182.20 is not affected by the final rule for *beta*-carotene. As noted by the comment, carrot oil is a mixture of carotenoids and is produced by extraction of edible carrots. Thus, it is a different product from *beta*-carotene described in new § 184.1245.

A second comment stated that the Select Committee's final report underestimated the daily amount of *beta*-carotene consumed by infants. The comment submitted a 4½-ounce jar of baby food (carrots) to FDA for analysis. The comment stated that the jar contained about 25,000 international units of vitamin A, which is equivalent to 14 milligrams of *beta*-carotene. The comment went on to describe the case of an infant who consumed three or more jars of carrots each day, which amounted to at least 45 milligrams of *beta*-carotene. The comment reported that the infant had developed carotenemia (orange pigmentation of the skin) from eating the baby food containing carrots.

This comment also cited two references on *beta*-carotene (and vitamin A). One of the references described liver concentrations, of *beta*-carotene in individuals who died after an acute, traumatic event as well as in individuals who died from chronic disease (Ref. 1). The other publication discussed the association of carotenemia and menstrual disorders in women (Ref. 2).

The agency has reviewed this comment in light of the Select Committee's final report and of the published articles cited in the comment. As reported in the proposal (47 FR 47436), the Select Committee considered the estimated per capita intake of *beta*-carotene from all sources to average approximately 2.3 milligrams per day. This estimate is representative of the long-term eating patterns of the entire populaition expressed on daily basis. However, as the Select Committee indicated in its report, substantially larger amounts of *beta*-carotene may be ingested in diets rich in colored vegetables (*id*). The Select Committee also noted that, using other data on intake, the National Research Council estimated that the daily consumption of added carotene by unfants and small children up to 23 months of age ranged from 1 milligram to 26 milligrams (Ref. 4). Nevertheless, the Select Committee concluded that there was no evidence of hazard to infants, children, or the public at large when the substance is used at either current levels or those reasonably expected in the future (47 FR 47437).

The agency has considered the comment's report of consumption of at least 45 milligrams a day of *beta*-carotene by an infant. FDA believes that the level of *beta*-carotene consumed by the infant was high and directly related to the child's above average consumption of carotene rich carrots. The agency has no basis to question the comment's assertion that the infant suffered from carotenemia. FDA is aware that carotenemia can develop as a result of sustained high levels of carotene consumption. However, the Select Committee stated, and the agency believes, that carotenemia is a harmles skin coloration cause by consumption of high levels of *beta*-carotene rather than an acute or chronic toxic effect. The agency also notes that the condition is reversible in 2 to 6 weeks after the high levels of carotene rich foods are omitted from the diet.

FDA also has reviewed the references cited in the comment. One of the references (Ref. 2) presented data on 10 women suggesting that carotenemia, resulting from the ingestion of an excessively high carotene diet, may be associated with the development of menstrual dysfunction. The patients who were able to modify their diet showed an improvement in their menstrual cycles. The author of the report theorized that carotenemia is possibly related to menstrual dysfunction but concluded that further investigation was needed to assess this hypothesis. Based on its review of this reference, the agency believes that the data in the study are inadequate to draw any conclusions on the association between carotenemia and menstrual dysfunction. The study was small (only 10 patients) and had numerous design deficiencies, including a lack of any controls.

The other reference (Ref. 1) discussed an article (Ref. 3) that reported carotene and vitamin A concentrations in liver specimens collected during autopsies in Washington, DC. The age group in which the carotene content of liver was lowest was children below the age of 2, and it was highest in children from 2 months to 10 years old and in adults over 70 years old. the vitamin A content of liver, in relation to age, followed a pattern similar to that of carotene. The paper suggest that the lower levels

observed in early infancy reflect limited reserves at birth, and the higher levels seen in children from 2 months to 10 years old and in adults over 70 years old may be the result of the use of vitamin supplements.

The agency found nothing in these references that could be considered evidence of acute or long-range toxicity. FDA has not been presented with any data or information that would cause it to alter its opinion that the current usage, as well as reasonably foreseeable future usage, of *beta*-carotene is safe. Consequently, FDA has not modified the regulation on *beta*-carotene as a result of this comment.

The agency advises that the food categories listed in the proposed regulation for *beta*-carotene as a nutrient were the uses reported in the National Academy of Sciences/National Research Council survey. They are not intended to be specific limitations or to preclude the use of this ingredient in other food categories. No data on the use of *beta*-carotene in additional food categories were submitted to the agency as comments on the proposal. Persons seeking FDA approval of new uses of this ingredient may submit a food additive or GRAS affirmation petition in accordance with § 171.1 or § 170.35 (21 CFR 171.1 or 170.35).

The agency has determined under 21 CFR 25.24(b)(7) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

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

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Pipes, P., *Nutrition in Infancy and Childhood*, 2d Ed., p. 49, 1981.

2. Kemmann, E., "Amenorrhea Associated with Carotenemia, "*Journal of the American Medical Association*, 249:926–929, 1983.

3. Mitchell, G.V., M. Young, and C.R. Seward, "Vitamin A and Carotene Levels of a Selected Population in Metropolitan Washington, DC.," *American Journal of Clinical Nutrition*, 26:992–997, 1973.

4. "Evaluation of the Health Aspects of Carotene (*beta*-Carotene) as a Food Ingredient," Life Sciences Research Office, Federation of American Societies for Experimental Biology, p. 7, 1979.

List of Subjects

21 CFR Part 182

Food ingredients, Spices and flavorings.

21 CFR Part 184

Food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. The authority citation for 21 CFR Part 182 continues to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21, CFR 5.10, 5.61.

§ 182.8245 [Removed]

2. Part 182 is amended by removing § 182.8245 *Carotene.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. The authority citation for 21 CFR Part 184 continues to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10, 5.61.

4. Part 184 is amended by adding new § 184.1245 to read as follows:

§ 184.1245 Beta-carotene.

(a) *Beta*-carotene (CAS Reg. No. 7235–40–7) has the molecular formula $C_{40}H_{56}$. It is synthesized by saponification of vitamin A acetate. The resulting alcohol is either reacted to form vitamin A Wittig reagent or oxidized to vitamin A aldehyde. Vitamin A Wittig reagent and vitamin A aldehyde are reacted together to form *beta*-carotene.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 73, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: dairy product analogs as defined in § 170.3(n)(10) of this chapter; fats and oils as defined in § 170.3(n)(12) of this chapter; and processed fruits and fruit juices as defined in § 170.3(n)(35) of this chapter. *Beta*-carotene may be used in infant formula as a source of vitamin A in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act or with regulations promulgated under section 412(g) of the act.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Dated: June 23, 1987.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–15204 Filed 7–2–87; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 510 and 522

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor of several new animal drug applications (NADA's) from Carter-Glogau Laboratories, Inc., to Steris Laboratories, Inc.

EFFECTIVE DATE: July 6, 1987.

FOR FURTHER INFORMATION CONTACT: John W. Borders, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: Carter-Glogau Laboratories, Inc., 5160 West Bethany Home Rd., Glendale, AZ 85301, a wholly-owned subsidiary of Revco D.S., Inc., has informed the agency that all of its assets have been sold to Steris Laboratories, Inc., 620 North 51st Ave., Phoenix, AZ 85043-4705, a subsidiary of Schein Pharmaceuticals, Inc. Steris has confirmed the change of sponsor. Steris has also filed several supplemental NADA's providing for the change of sponsor of all of Carter-Glogau's approved NADA's. The NADA's affected are:

NADA	Product
44-585	Oxytocin injection (cattle, horses, swine, sheep, cats, dogs).
45-578	2 percent Lidocaine hydrochloride with epinephrine injection (cattle, horses, dogs, cats).
45-737	Sodium pentobarbital injection (dogs, cats).
45-848	Phenylbutazone injection (horses).
47-055	Chorionic gonadotropin for injection, U.S.P. (cattle).
104-606	Dexamethasone sodium phosphate injection, U.S.P. (dogs, horses).
110-349	Dexamethasone injection (horses).
110-350	Dexamethasone injection (dogs).
117-973	Prednisolone sodium succinate for injection, U.S.P. (horses).

The change of sponsor to Steris does not involve any changes in current manufacturing facilities, equipment, procedures, or production personnel.

FDA is amending the list of sponsors of approved NADA's in 21 CFR 510.600 (c)(1) and (c)(2) and the sponsor paragraphs in 21 CFR 522.540 (b)(2)(ii) and (c)(2), 522.1081(a)(2)(i), 522.1258(b), 522.1680(b), 522.1704(b)(2), 522.1720(b)(2), and 522.1884(c) to reflect the change of sponsor.

FDA is also amending 21 CFR 510.600 (c)(1) and (c)(2) to remove Carter-Glogau Laboratories, Inc., because it is no longer the sponsor of any approved NADA's.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. Section 510.600 is amended in paragraph (c)(1) by removing the entry "Carter-Glogau Laboratories, Inc.," and by adding the entry "Steris Laboratories, Inc.," and in paragraph (c)(2) by removing the entry "000381," and by adding the entry "000402" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Steris Laboratories, Inc., 620 North 51st Ave., Phoenix, AZ 85043-4705	000402
* * * * *	

(2) * * *

Drug labeler code	Firm name and addresss
* * * * *	
000402	Steris Laboratories, Inc., 620 North 51st Ave., Phoenix, AZ 85043-4705.
* * * * *	

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR Part 522 continues to read as follows:

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

§ 522.540 [Amended]

4. Section 522.540 *Dexamethasone injection* is amended in paragraphs (b)(2)(ii) and (c)(2) by removing "000381" and inserting in its place "000402."

§ 522.1081 [Amended]

5. Section 522.1081 *Chorionic gonadotropin for injection; chorionic gonadotropin suspension* is amended in paragraph (a)(2)(i) by removing "000381" and inserting in its place "000402."

§ 522.1258 [Amended]

6. Section 522.1258 *Lidocaine injection with epinephrine* is amended in paragraph (b) by removing "000381" and inserting in its place "000402."

§ 522.1680 [Amended]

7. Section 522.1680 *Oxytocin injection* is amended in paragraph (b) by removing "000381" and inserting in its place "000402."

§ 522.1704 [Amended]

8. Section 522.1704 *Sodium pentobarbital injection* is amended in paragraph (b)(2) by removing "000381" and inserting in its place "000402."

§ 522.1720 [Amended]

9. Section 522.1720 *Pheynylbutazone injection* is amended in paragraph (b)(2) by removing "000381" and inserting in its place "000402."

§ 522.1884 [Amended]

10. Section 522.1884 *Prednisolone sodium succinate injection* is amended in paragraph (c) by removing "000381" and inserting in its place "000402."

Dated: June 25, 1987.

Donald A. Gable,

Acting Associate Director, Center for Veterinary Medicine.

[FR Doc. 87-15202 Filed 7-2-87; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 520, 556, and 558

[Docket No. 86N-0438]

Animal Drugs, Feeds, and Related Products; Dimetridazole

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Center for Veterinary Medicine (CVM) of the Food and Drug Administration (FDA) is amending the animal drug regulations by removing the regulations that reflect approval of new animal drug applications (NADA's) for dimetridazole, a new animal drug used as an antiprotozoal agent in turkeys. This action is being taken because, as explained in a notice published elsewhere in this issue of the **Federal Register**, approval of the NADA's is being withdrawn.

EFFECTIVE DATE: July 31, 1987.

FOR FURTHER INFORMATION CONTACT: Philip J. Frappaolo, Center for Veterinary Medicine (HFV-240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4940.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 17, 1986 (51 FR 45244), FDA's Center for Veterinary Medicine (CVM) issued a notice of opportunity for hearing on a proposal to withdraw approval of new animal drug applications (NADA's) for dimetridazole. The proposed rule was based on CVM's determination that dimetridazole has not been shown to be safe for use because: (1) New evidence provides a reasonable basis from which serious questions about the ultimate safety of dimetridazole and the residues that may result from its use may be inferred, (2) new evidence shows that dimetridazole is no longer shown to be safe by adequate tests by all methods reasonably applicable, and (3) new evidence shows that the labeled directions for use have not been followed in practice and are not likely to be followed in the future.

Salsbury Laboratories, Inc., the sponsor of the three approved NADA's for dimetridazole, filed a written appearance requesting a hearing but later withdrew it, thus waiving the opportunity for hearing.

In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of Salsbury's NADA 14-145, NADA 14-345, and NADA 14-613. Upon withdrawal of approval of new animal drug applications, the agency is required by section 512(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(i)) to remove the regulations that reflect the approvals. This document removes 21 CFR 520.680, 520.680a, 520.680b, 556.210, and 558.240 which reflect the approvals, and amends 21 CFR 558.4, which concerns medicated feed applications, to delete dimetridazole.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 520, 556, and 558 are amended as follows:

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

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

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

§ 520.680 [Removed]

2. Section 520.680 *Dimetridazole oral dosage forms* is removed.

§ 520.680a [Removed]

3. Section 520.680a *Dimetridazole drinking water* is removed.

§ 520.680b [Removed]

4. Section 520.580b *Dimetridazole tablets* is removed.

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

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

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

§ 556.210 [Removed]

6. Section 556.210 *Dimetridazole* is removed.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.4 [Amended]

8. Section 558.4 *Medicated feed applications* is amended in paragraph (d) under the "Category II" table by removing the entry for "Dimetridazole."

§ 558.240 [Removed]

9. Section 558.240 *Dimetridazole* is removed.

Dated: June 29, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-15201 Filed 7-2-87; 8:45 am]

BILLING CODE 4160-01-M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

Election Procedures

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: This final rule establishes the requirement that an employer must post, 3 days prior to an election, a notice notifying employees of an election conducted under section 9 of the National Labor Relations Act, 29 U.S.C. 159. This new provision will both facilitate the election process and eliminate litigation over the issue of the appropriate time period for posting an election notice.

EFFECTIVE DATE: August 5, 1987.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue NW., Room 701, Washington, DC 20570, Telephone: (202) 254-9430.

SUPPLEMENTARY INFORMATION: On March 11, 1987, a notice of proposed rulemaking was published in the **Federal Register** (52 FR 7450) wherein the Board proposed to amend its rules to include a provision requiring employers to post a notice of election 3 days before an election is conducted. The proposed rule provided that the employer shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to the commencement of an election. The term "working days" was defined as all days other than Saturdays, Sundays, and holidays. The rule further provided that a party shall be estopped from objecting to nonposting of notices if it is responsible for the nonposting, and that an employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office to the contrary at least 5 working days prior to the commencement of the election.

The supplementary information accompanying the proposed rule recognized that the official Board Notice of Election contains important information with respect to employee rights under the Act and that such information should be conveyed to the employees far enough in advance of the election so that employees will be adequately apprised of their rights. By establishing a specific length of time for posting, the provision made clear to the parties their respective responsibilities and obligations with respect to notice posting and attempted to eliminate unnecessary and time-consuming litigation on this issue.

In response to the Board's proposal, nine written comments were received from individuals and organizations. All but one spoke favorably of the Board's proposal and commended its efforts to establish clarity and uniformity in this area. Comments from the Board's Regional Offices noted that the proposal was generally in accord with current

practice and thus could easily be implemented.

Most of the comments, however, also contained suggestions for amending the proposed rule. Two suggestions clearly had merit. One pointed out that the proposed rule referred, in the summary preceding the rule, only to elections conducted under section 9(c) and thus did not apply to UD elections under section 9(e) and recommended that the rule refer simply to elections conducted under section 9 of the Act. As the Board did not intend that 9(c) elections be conducted differently from 9(e) elections, this suggestion was adopted and the summary, as set forth above, was redrafted accordingly. The other suggestion was that, although the proposed rule implied that the failure to post the notice would be objectionable conduct, the rule should affirmatively state that failure to post will be grounds for setting aside an election upon timely filing of an objection. Such an addition would remove any doubt as to the objectionable nature of the conduct as well as clearly place the burden of raising the failure to post on the other parties to the election thereby eliminating any argument that the Regions should police the rule. The Board agreed with that position. Accordingly, the following sentence has been added as a separate paragraph (d) at the end of § 103.20:

> Failure to post the election notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of § 102.69(a).

Two nurses' associations suggested that the 3-day period be increased to 5 or 7 days as employees in the health care field frequently do not work a normal 5-day week but instead work long hours for 3 or 4 days and then have 3 to 4 days off. The Board considered this suggestion but still concluded that a posting of 3 full working days is a sufficient period of time to adequately apprise most voters of their rights. The Board was reluctant to complicate the rule by establishing different posting periods for different industries. However, because of other suggestions relating to how the "3 full working days" is defined, as discussed below, we have changed the definition of "working days"; as a practical matter, because of the way "working days" is defined, the actual posting period will normally be longer than 72 hours.

As indicated, several commentators had problems with the language in the proposed rule requiring that notices be posted "at least 3 full working days prior to the commencement of the election." "Working days" was defined in the proposed rule as "all days other than Saturdays, Sundays, and holidays." Commentators thought that the rule was confusing as it was unclear as to whether the day of the election was included in the 3 days and also as to exactly when the 3 days would begin, i.e., 12:01 a.m. on the first day or when employees actually arrived for work on the first day. One commentator suggested that the rule require a period of at least 72 consecutive hours during the preceding 3 working days. The Board considered these suggestions and agreed that the proposed language could be improved to make clear that the rule specifically excludes the day of election. Accordingly, the first sentence in § 103.20(a) has been rewritten to require that notices be posted at least 3 full working days prior to 12:01 a.m. of the day of the election. The Board did not adopt the suggestion that the rule should describe the time period in hours rather than 3 working days because requiring consecutive hours does not allow for Saturdays, Sundays, and holidays. We recognized, however, that the phrase "3 full working days" needed a more precise definition. Accordingly, the definition of "working days" in §103.20(b) has been revised to equate a full working day with an entire 24-hour period excluding Saturdays, Sundays, and holidays. As noted above, these changes make longer posting likely, as an employer will no doubt post the day before rather than stay up until 12:01 a.m. of the first day to post the notice.

Two comments took issue with the burdens placed on the employer by the rule. One commentator decried the mandatory nature of the requirement as it includes situations in which the employer has acted in good faith. This commentator argued that such requirement would increase rather than decrease litigation especially over issues such as who removed or tampered with the notice and when. Another opposed the idea that an employer is presumed to have received notices unless it notifies the Regional Office 5 days before the election, and that an employer is presumed to have knowledge of the Board's posting requirements. This commentator suggested that the notice be sent by certified mail.

The Board recognized that the proposed rule does not solve all notice-posting problems and that various issues, including tampering with a timely posted notice, will still have to be litigated if raised. With respect to adequately informing employers of their notice-posting obligations, the Board has again rejected the use of certified mail as it would impose an undue extra burden on the Regions. It was the Board's intention to discuss with the Regional Offices what method of notification would be practicable, and that has now been done. The Board considered adding a footnote to the Decision and Direction of Election, much like the *Excelsior* footnote, describing when the notices would be mailed, the employer's obligation to post the notices when received, and the employer's obligation to notify the Regional Office if not received; or, alternatively, including such information in any cover letter to employers that accompanies the Decision and Direction of Election or the cover letter that is sent to all parties with a copy of the petition. The Board rejected the first suggestion on the grounds that many Decisions and Directions of Election were already rather lengthy and thus should not be further burdened and the second on grounds that not all Regions send a cover letter with the Decision and Direction of Election. The Board did believe, however, that the last suggestion is a good idea in that the cover letter accompanying service of the petition already recites various obligations of the parties with respect to the petition and thus could easily be amended to include reference to the new notice posting requirement. This makes the employer aware of its obligations at an early date, and the petition and cover letter are already being sent by certified mail and consequently the Region would be assured that the employer had been adequately apprised of its obligations. The Board also has informed the General Counsel's Division of Operations to add a line to the Election Order Sheet (Form 700), which the Board agent would initial when he or she orally reminds the employer of its notice-posting obligations shortly before the notices are mailed.

Lastly, the Board rejected the suggestion made in one of the comments that the rule specifically define the term "conspicuous" as that location normally utilized by an employer to post notices to employees. That the notice be posted in a conspicuous place has long been a requirement of notice posting, and the Board saw no need specifically to describe the term or limit the number of places that could be called "conspicuous."

As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 29 CFR Part 103

Administrative practice and procedure, Labor management relations.

For the reasons set forth in the preamble, 29 CFR Part 103 is amended as follows.

PART 103—OTHER RULES

1. The authority citation for 29 CFR Part 103 is revised to read as follows:

Authority: Sec. 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156) and sec. 553 of the Administrative Procedure Act (5 U.S.C. 500, 553).

2. Part 103 is amended by adding Subpart B, consisting of §103.20, to read as follows:

Subpart B—Election Procedures

§ 103.20 Posting of election notices.

(a) Employers shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Office in the mail. In all cases, the notices shall remain posted until the end of the election.

(b) The term "working day" shall mean an entire 24-hour period excluding Saturdays, Sundays, and holidays.

(c) A party shall be estopped from objecting to nonposting of notices if it is responsible for the nonposting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office at least 5 working days prior to the commencement of the election that it has not received copies of the election notice.

(d) Failure to post the election notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of §102.69(a).

Dated, Washington, DC June 30, 1987.

By direction of the Board.

National Labor Relations Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 87-15228 Filed 7-2-87; 8:45 am]

BILLING CODE 7545-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD Directive 1340.16]

32 CFR Part 63

Former Spouse Payments From Retired Pay

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: This administrative change implements section 644 of the DoD Authorization Act for Fiscal Year 1987 (Pub. L. 99-661) which amends section 1408(a)(4) of title 10, United States Code (10 U.S.C. 1408(a)(4). The rule provides revised guidance on direct payments to a former spouse from the retired pay of a member in response to court ordered alimony, child support, or division of property. It amends prior regulations to permit the division of retired pay due to disability under 10 U.S.C. chapter 61, when certain specified conditions are satisfied.

DATES: Effective date: June 12, 1987. Comments must be received by August 5, 1987.

FOR FURTHER INFORMATION CONTACT: James T. Jasinski, Office of the Deputy Assistant Secretary of Defense (Management Systems), Washington, DC 20301-1100. Telephone 202-697-0536.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 18, 1985 (50 FR 2665), DoD issued the prior final rule on this subject matter after a comment period. DoD reserves the right to acknowledge or to respond to individual comments directly or address all comments through the **Federal Register.**

Executive Order 12291

DoD has determined that this rule is not a major rule for the purpose of E.O. 12291, because it is not likely to have an annual effect on the economy of $100 million or more, and, therefore, does not require a regulatory impact analysis.

Paperwork Reduction Act

This rule imposes no new information requirements. Prior information requirements have been approved by the Office of Management and Budget (OMB). OMB Control Number 0704-0160.

Regulatory Flexibility Act of 1980

I certify that this rule shall be exempt from the requirements under 5 U.S.C. 601-612. In addition, the rule does not have a significant economic effect on small entities as defined in the Regulatory Flexibility Act.

List of Subjects in 32 CFR Part 63

Alimony, Child support, Military personnel, Pensions, Reporting and recordkeeping requirements.

PART 63—[AMENDED]

Accordingly, 32 CFR Part 63 is amended as follows:

1. The authority citation for Part 63 continues to read as follows:

Authority: 10 U.S.C. 1408.

§ 63.3 [Amended]

2. In § 63.3(o), remove the last sentence: "It does not include benefits paid to a member retired for disability under 10 U.S.C. Chapter 61."

§ 63.6 [Amended]

3. In § 63.6(b)(5)(i), change "46249" to 46249-0160."

4. In § 63.6(b)(5)(ii), change "44199" to "44199-2087."

5. In § 63.6(b)(5)(iii), change "JA" to "JAL" and "80279" to "80279-5000."

6. In § 63.6(b)(5)(iv), change "64197" to "64197-0001."

7. Under § 63.6(b)(5)(v), change address to: "United States Coast Guard, Commanding Officer (L), Pay and Personnel Center, 444 Quincy Street, Topeka, Kansas 66683-3591; (913) 295-2516."

8. In § 63.6(b)(5)(vi), change address to: "Office of General Counsel, Department of Health and Human Services, Room 5362, 330 Independence Avenue, SW., Washington, DC 20201, and telephone number to (202) 475-0153."

9. In § 63.6(b)(5)(vii), change address to: "United States Coast Guard, Commanding Officer (L), Pay and Personnel Center, 444 Quincy Street, Topeka, Kansas 66683-3591; (913) 295-2516."

10. Section 63.6(e)(2) is revised as follows: "Disposable retired pay is the gross pay entitlement, including renounced pay, less authorized deductions. Disposable retired pay does not include annuitant payments under 10 U.S.C. Chapter 73. For court orders issued on or before November 14, 1986 (or amendments thereto), disposable retired pay does not include retired pay of a member retired for disability under 10 U.S.C. Chapter 61. The authorized deductions are: . . ."

11. Section 63.6(e)(2)(vi) is redesignated as § 63.6(e)(2)(vii) and a new § 63.6(e)(2)(vi) is added as follows: "The amount of retired pay of the member under 10 U.S.C. Chapter 61 computed using the percentage of the member's disability on the date, when the member was retired (or the date on which the member's name was placed on the temporary disability retirement list), for court orders issued after November 14, 1986."

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

June 26, 1987.

[FR Doc. 87-15177 Filed 7-2-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency

32 CFR Part 292a

[DIA Reg. 12-12]

Defense Intelligence Agency Privacy Program

AGENCY: Defense Intelligence Agency (DIA), DoD.

ACTION: Final rule amendment.

SUMMARY: The Defense Intelligence Agency is amending its rules by removing that portion of our amendment of December 17, 1986, 51 FR 45110, which sought to add two new specific exemption rules. However, the December 17th entry here removed was unnecessary since these new rules had already been incorporated into the DIA's Final Rule on December 8, 1986, at 51 FR 44066. Because the exemptions found at § 292a.15 are now included at § 292a.13, § 292a.15 is superfluous.

EFFECTIVE DATE: July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Hardzog, Chief, Freedom of Information and Privacy Act Staff, Defense Intelligence Agency, RTS-1, Washington, DC 20340-3299. Telephone: (202) 373-3910, Autovon: 242-3913.

SUPPLEMENTARY INFORMATION: The DIA has determined that this final rulemaking amendment is not a major rule as defined by E.O. 12291, is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 90-354), and does not contain reporting or recordkeeping requirements under criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

List of Subjects in 32 CFR Part 292a

Privacy.

PART 292a—[AMENDED]

Accordingly, 32 CFR Part 292a is amended as follows:

1. The authority citation for Part 292a continues to read as follows:

Authority: Privacy Act of 1974 (Pub. L. 93-579, section 3 (f) and (k) of 5 U.S.C. 552a).

§ 292a.15 [Removed]

2. Section 292a.15 is removed.

June 29, 1987.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 87-15176 Filed 7-2-87; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 3, 25, 47, 72, 80, 100, 165, 174

[CGD 87-008b]

Editorial Changes Reflecting Recent Coast Guard Organization Changes

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule makes editorial and administrative corrections to Title 33, Code of Federal Regulations, Parts 3, 25, 47, 72, 80, 100, 165, and 174, to reflect recent Coast Guard organizational changes which realigned certain Coast Guard district boundaries and created Maintenance and Logistics Commands. The Twelfth Coast Guard District has been disestablished, and its geographic area absorbed by the Eleventh Coast Guard District. The Third Coast Guard District has been disestablished, and its geographic area divided between the First and Fifth Coast Guard Districts. Two Maintenance and Logistics Commands were established, one at Governor's Island, New York, New York, and the other at Coast Guard Island, Alameda, California. These changes do not affect any Coast Guard services to the public.

This rulemaking also changes the agency administrative claims regulations in 33 CFR Part 25 to reflect a transfer of claims adjudication functions to the newly established Maintenance and Logistics Commands, and also to reflect the current on-going policy of paying, under the Military Claims Act, for certain damages caused by agency personnel in the performance of their law enforcement mission. It also deletes the regulations in 33 CFR Part 47 delineating the procedures agency employees must follow for legal representation, at no cost to them, before foreign tribunals.

EFFECTIVE DATE: This amendment is effective 1 July, 1987.

FOR FURTHER INFORMATION CONTACT: LCDR E.A. CALHOUN, Commandant, U.S. Coast Guard (G-CPA), Washington, DC (202-267-2405).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not prepared for this regulation. These amendments are matters relating to agency organization and are exempt from the notice and comment requirements of 5 U.S.C. 553(b). Since this rule reflects current on-going changes, and also contains editorial changes which do not change agency procedures, good cause exists to make it effective, under 5 U.S.C. 533(d), in less than 30 days after publication.

The rulemaking reflects changes in District boundaries, as discussed and published Tuesday, April 21, 1987 in the **Federal Register**, Volume 52, Number 76, pages 13082-13084. Also, as stated, additional changes to the Code of Federal Regulations reflecting creation of the Maintenance and Logistics Commands are included in this rulemaking. We are also taking this opportunity to make minor administrative corrections to regulations.

Drafting information: LCDR E.A. Calhoun, project manager; and LT. S. Sylvester, project counsel, Office of the Chief Counsel.

Discussion: In order to free up manpower for vital operational missions, the Coast Guard is undertaking a realignment of functions within the organization. This realignment will result in the consolidation of many administrative and support activities, previously performed by the Coast Guard district offices, at two new commands: the regional Maintenance and Logistics Commands. The district offices will be primarily involved in the operational control of Coast Guard units in their areas. The Maintenance and Logistic Commands will begin operation on July 1, 1987. This amendment reflects the assumption by the Maintenance and Logistics Commands of the administrative claims investigation and adjudication function.

One result of this ongoing realignment is the disestablishment of the Third and Twelfth Coast Guard Districts. This amendment reflects the editorial changes in 33 CFR Parts 3, 74, 80, 100, 165, and 174 to delete references to the disestablished districts, reflect subsequent boundary changes in the First, Fifth and Twelfth Coast Guard Districts, and renumber sections where appropriate. The description of the Fifth Coast Guard District, in 33 CFR 3.25-1, has been revised for clarity, without changing the area covered from that established in the rule published Tuesday, April 21, 1987 in the **Federal Register**, Volume 52, Number 76, pages 13082-13084.

The special requirement in 33 CFR Part 174 for the State of Vermont to forward boating/marine casualty or accident reports to the Third Coast Guard District is removed. Vermont will now forward such reports to the First Coast Guard District, the district in which the state capital is located.

Additionally, an editorial change is also being made to the Coast Guard claims regulations involving the Military Claims Act, a purely administrative claims statute applying to claims worldwide. This statute has been interpreted and administered in various ways by the Armed Services, reflecting the particular needs and activities of each Service. Since the Federal Tort Claims Act also authorizes the payment of administrative claims for torts committed by Federal employees, the Armed Services, in the administration of this non-tort statute, have by regulation adopted most of the legislative exceptions to payment of claims under the Federal Tort Claims Act contained in 28 U.S.C. 2680. In publishing the Final Rule of May 18, 1981 (46 FR 27107), the Coast Guard inadvertently included in § 25.405 a reference to 28 U.S.C. 2680(c), which prohibits the payment of claims for the detention or damage of property by an officer of the customs or any other law enforcement officer. In view of its law enforcement mission, the Coast Guard did not intend that exception to apply to certain meritorious claims arising from its activities. Such claims have been paid. To clarify any misunderstanding and to accord with past policy, the reference to 28 U.S.C. 2680(c) is deleted.

Lastly, the Coast Guard, by regulation, also established procedures for Coast Guard personnel to be represented by counsel, for bail, and for other expenses before foreign tribunals. These procedures relate to internal management and are not appropriate for inclusion in the Code of Federal Regulations. They are therefore deleted.

Regulatory Evaluation: This final rule is exempt from the provisions of Executive Order 12291 since it pertains to matters of agency organization as provided for in section 1(a)(3) of the Executive Order. It is considered to be nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This final rule places no requirements on any sector of the public. It will not affect Coast Guard services delivered to the public. The rule reflects a change in internal Coast Guard organization, streamlining the logistics and support functions. In accomplishing this, some functions and personnel will be transferred from one location to another. Since the impact of the final rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small business entities.

List of Subjects

33 CFR Part 3

Coast Guard Areas, Districts, Marine Inspection Zones and Captain of the Port Zones.

33 CFR Part 25

Claims.

33 CFR Part 47

Counsel Fees and Expenses in Foreign Courts.

33 CFR Part 72

Marine Information.

33 CFR Part 80

COLREGS Demarcation Lines.

33 CFR Part 100

Regattas and Marine Parades. Safety of Life of Navigable Waters.

33 CFR Part 165

Regulated Navigation Areas and Limited Access Areas.

33 CFR Part 174

State Numbering and Casualty Reporting Systems.

Final Regulation

In consideration of the foregoing, Parts 3, 25, 47, 72, 80, 100, 165, and 174 of Title 33 of the Code of Federal Regulations are amended as set forth below.

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES AND CAPTAIN OF THE PORT ZONES

1. The authority citation for Part 3 continues to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.45, 1.46.

§ 3.01–1 [Amended]

2. In § 3.01–1, paragraph (f) is removed and paragraph (g) is redesignated paragraph (f).

3. In § 3.25–1, paragraph (b) is revised to read as follows:

§ 3.25–1 Fifth district.

* * * * *

(b) The Fifth Coast Guard District is comprised of: North Carolina; Virginia, District of Columbia; Maryland; Delaware; that part of Pennsylvania east of a line drawn along 78°55′ W. longitude south to 41°00′ N. latitude, thence west to 79°00′ W. longitude, and thence south to the Pennsylvania-Maryland boundary; that portion of New Jersey that lies south and west of a line drawn from the New Jersey shoreline at 39°57′ N. latitude (in the vicinity of Tom's River, N.J.), thence westward to 39°57′ N. latitude, 74°27′ W. longitude, thence north-northwesterly to the junction of the New York, New Jersey, and Pennsylvania boundaries at Tristate; and the ocean area encompassed by a line bearing 122°T from the coastal end of the First and Fifth Coast Guard Districts' land boundary at the intersection of the New Jersey shoreline and 39°57′ N. latitude (in the vicinity of Tom's River, New Jersey) to the southernmost point in the First Coast Guard District (a point located at approximately 36°43′ N. latitude, 67°30′ W. longitude); thence along a line bearing 219°T to the point of intersection with the ocean boundary between the Fifth and Seventh Coast Guard Districts, which is defined as a line bearing 122°T from the coastal end of the Fifth and seventh Coast Guard Districts' land boundary at the shoreline at the North Carolina-South Carolina border, a point located at approximately 30°55′ N, 73° W.; thence northwesterly along this line to the coast.

PART 25—CLAIMS

4. The authority citation for Part 25 continues to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.45 and 1.46.

5. Section 25.103 is revised to read as follows:

§ 25.103 Information and assistance.

Any person who desires to file a claim against the United States Coast Guard arising out of the activities of the Coast Guard may obtain information and assistance from the Coast Guard Maintenance and Logistics Command Atlantic, located at Governor's Island, New York, New York, 10004, or from the Coast Guard Maintenance and Logistics Command Pacific, located at Coast Guard Island, Alameda, California, 94501, or from Commandant (G–LCL), U.S. Coast Guard, Washington, DC 20593, or from the Commander of any Coast Guard District listed in 33 CFR Part 3.

6. In § 25.111, paragraph (b) is revised to read as follows:

§ 25.111 Action by claimant.

* * * * *

(b) *Presentation.* Whenever possible the claim must be presented to the geographically appropriate Coast Guard Maintenance and Logistics Command. The Coast Guard Maintenance and Logistics Command Atlantic is located at Governor's Island, New York, New York, 10004; Coast Guard Maintenance

and Logistics Command Pacific is located at Coast Guard Island, Alameda, California, 94501. If that is not possible, the claim may also be presented to:

* * * * *

7. In § 25.405, paragraph (g) is revised to read as follows:

§ 25.405 Claims not payable.

* * * * *

(g) Is one of the following exceptions to the Federal Tort Claims Act, 28 U.S.C. 2680 (a), (b), (e), (f), (h), or (j). (However, a claim falling within the exception contained in 28 U.S.C. 2680 (b) is payable when not prohibited by paragraph (i) of this section.);

* * * * *

PART 47—PAYMENT OF COUNSEL FEES AND OTHER EXPENSES IN FOREIGN COURTS

8. The entirety of Part 47, consisting of § 47.01 through and including § 47.20, is hereby removed.

PART 72—MARINE INFORMATION

9. The authority citation for Part 72 continues to read as follows:

Authority: 14 U.S.C. 85; 49 CFR 1.46

10. In Section 72.01–10, paragraph (a)(2) is revised to read as follows:

§ 72.01-10 Notice to Mariners.

(a) * * *

(2) Selected from the "Local Notice to Mariners" issued and published by the 1st, 2nd, 5th, 7th, 8th, 9th, 11th, 13th, 14th, and 17th Coast Guard districts; and

* * * * *

PART 80—COLREGS DEMARCATION LINES

11. The authority citation for Part 80 continues to read as follows:

Authority: 33 U.S.C. 151(a); 49 CFR 1.46

12. In Part 80, preceeding § 80.305, the undesignated heading "Third District" is removed.

§ 80.305, 80.310, and 80.315 [Redesignated as 80.155, 80.160 and 80.165]

13. Sections 80.305, 80.310, and 80.315 are redesignated as §§ 80.155, 80.160, and 80.165 respectively.

14. Section 80.170 is added to read as follows:

§ 80.170 Sandy Hook, NJ to Tom's River, NJ.

(a) A line drawn from Shark River Inlet North Breakwater Light 2 to Shark River Inlet South Breakwater Light 1.

(b) A line drawn from Manasquan Inlet North Breakwater Light 4 to Manasquan Inlet South Breakwater Light 3.

(c) A line drawn from Barnegat Inlet North Breakwater Light 4A to the seaward extremity of the submerged Barnegat Inlet South Breakwater; thence along the submerged breakwater to the shoreline.

§ 80.320 [Removed]

15. Section 80.320 is removed.

16. Section 80.501 is added to read as follows:

§ 80.501 Tom's River, NJ to Cape May, NJ.

(a) A line drawn from the seaward tangent of Long Beach Island to the seaward tangent to Pullen Island across Beach Haven and Little Egg Inlets.

(b) A line drawn from the seaward tangent of Pullen Island to the seaward tangent of Brigantine Island across Brigantine Inlet.

(c) A line drawn from the seaward extremity of Absecon Inlet.

(d) A line drawn from the southernmost point of Longport at latitude 30°18.2′ N. longitude 75°32.2′ W. to the northeasternmost point of Ocean City at latitude 39°17.6′ N. longitude 74°33.1′ W. across Great Egg Harbor Inlet. North Jetty to Atlantic City Light.

(e) A line drawn parallel with the general trend of highwater shoreline across Corson Inlet.

(f) A line formed by the centerline of the Townsend Inlet Highway Bridge.

(g) A line formed by the shoreline of Seven Mile Beach and Hereford Inlet Light.

(h) A line drawn from Cape May Inlet East Jetty Light to Cape May Inlet West Jetty Light.

§ 80.325 [Redesignated as 80.503]

17. Section 80.325 is redesignated Section 80.503.

§§ 80.1105, 80.1110, 80.1115, 80.1120, 80.1125, 80.1130, 80.1135, 80.1140, 80.1145, 80.1150, 80.1155, 80.1160, and 80.1165 [Redesignated as 80.1102, 80.1104, 80.1106, 80.1108, 80.1110, 80.1112, 80.1114, 80.1116, 80.1118, 80.1120, 80.1122, 80.1124, 80.1126].

18. Sections 80.1105, 80.1110, 80.1115, 80.1120, 80.1125, 80.1130, 80.1135, 80.1140, 80.1145, 80.1150, 80.1155, 80.1160, and 80.1165 are redesignated §§ 80.1102, 80.1104, 80.1106, 80.1108, 80.1110, 80.1112, 80.1114, 80.1116, 80.1118, 80.1120, 80.1122, 80.1124, and 80.1126 respectively.

§ 80.1205 [Amended]

19. In Part 80, preceeding § 80.1205, the undesignated heading "Twelfth District" is removed.

§§ 80.1205, 80.1210, 80.1215, 80.1220, 80.1225, 80.1230, 80.1250, 80.1255, 80.1260, 80.1265, 80.1270, 80.1275 [Redesignated, §§ 80.1130, 80.1132, 80.1134, 80.1136, 80.1138, 80.1140, 80.1142, 80.1144, 80.1146, 80.1148, 80.1150, 80.1152]

20. Sections 80.1205, 80.1210, 80.1215, 80.1220, 80.1225, 80.1230, 80.1250, 80.1255, 80.1260, 80.1265, 80.1270, and 80.1275 are redesignated §§ 80.1130, 80.1132, 80.1134, 80.1136, 80.1138, 80.1140, 80.1142, 80.1144, 80.1146, 80.1148, 80.1150, and 80.1152, respectively.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

22. The undesignated heading "Third District" preceding § 165.301 is removed.

§§ 165.301, 165.302, 165.304, 165.305, 165.310 [Redesignated §§ 165.130, 165.140, 165.150, 165.155, and 165.160]

23. Sections 165.301, 165.302, 165.304, 165.305 and 165.310 are redesignated §§ 165.130, 165.140, 165.150, 165.155, and 165.160, respectively.

§ 165.303 [Redesignated as § 165.510]

24. Section 165.303 is redesignated § 165.510.

§ 165.1201 [Amended]

25. The undesignated heading "Twelfth District" and § 165.1201 is removed.

SUBCHAPTER G—REGATTAS AND MARINE PARADES

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1223; 49 CFR 1.46 and 33 CFR 100.35.

27. Section 100.301 is redesignated § 100.502, and paragraph (b) is revised to read as follows:

§ 100.502 O.P.A. Classic, Barnegat Bay, NJ.

* * * * *

(b) *Effective period.* This regulation will be effective from 10:00 a.m. to 3:00 p.m. annually on the second Saturday in June unless otherwise specified in the Coast Guard Local Notice to Mariners and a **Federal Register** Notice. In case of postponement, this regulation will be in effect the following day.

* * * * *

28. Section 100.302 is redesignated § 100.503, and paragraph (b) is revised to read as follows:

§ 100.503 Barnegat Bay Air Brook Classic, Tom's River, NJ.

* * * * *

(b) *Effective period.* This regulation will be effective from 10:00 a.m. to 3:00 p.m. annually on the fourth Saturday in August unless otherwise specified in the Coast Guard Local Notice to Mariners and a **Federal Register** Notice. In case of postponement, this regulation will be in effect the following day.

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29. Section 100.303 is redesignated § 100.504, and paragraph (b) is revised to read as follows:

§ 100.504 Night in Venice, Great Egg Harbor Bay, City of Ocean City, NJ.

* * * * *

(b) *Effective period.* This regulation will be effective from 4:30 p.m. to 11:45 p.m. annually on the fourth Saturday in July unless otherwise specified in the Coast Guard Local Notice to Mariners and a **Federal Register** Notice.

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30. Section 100.304 is redesignated as § 100.101, and paragraph (b) is revised to read as follows:

§ 100.101 Harvard-Yale Regatta, Thames River, New London, CT.

* * * * *

(b) *Effective period.* This regulation will be effective from 10:00 a.m. to 1:30 p.m. annually on the first or second Saturday in June as published in the Coast Guard Local Notice to Mariners and a **Federal Register** Notice. In case of postponement, this regulation will be in effect the following day.

* * * * *

31. Section 100.305 is redesignated § 100.102, and paragraph (b) is revised to read as follows:

§ 100.102 Connecticut River Raft Race.

* * * * *

(b) *Effective period.* This regulation will be effective from 9:00 a.m. to 2:00 p.m. annually on the first Saturday in August unless otherwise specified in the Coast Guard Local Notice to Mariners and a **Federal Register** Notice.

* * * * *

32. Section 100.306 is redesignated § 100.505 and paragraph (b) is revised to read as follows:

§ 100.505 New Jersey Offshore Grand Prix.

* * * * *

(b) *Effective period.* This regulation will be effective from 8:00 a.m. to 5:00 p.m. annually on the third Wednesday in July unless otherwise specified in the Coast Guard Local Notice to Mariners and a **Federal Register** Notice.

* * * * *

33. Section 100.307 is redesignated § 100.103 and paragraph (b) is revised to read as follows:

§ 100.103 National Sweepstakes Regatta, Redbank, N.J.

* * * * *

(b) *Effective period.* This regulation will be effective from 8:00 a.m. to 6:00 p.m. annually on the third weekend (Saturday and Sunday) in August unless otherwise specified in the Coast Guard Local Notice to Mariners and a **Federal Register** Notice.

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34. Section 100.308 is redesignated § 100.104, and paragraph (b) is revised to read as follows:

§ 100.104 Empire State Regatta, Albany, N.Y.

* * * * *

(b) *Effective period.* This regulation will be effective from 6:00 a.m. Friday through 6:00 a.m. Monday, annually on the first or second weekend (Friday, Saturday, Sunday and early Monday) in June unless otherwise specified in the Coast Guard Local Notice to Mariners and a **Federal Register** Notice.

* * * * *

§ 100.1201 and 100.1202 [Redesignated as § 100.1103 and 100.1104 Respectively]

35. Sections 100.1201 and 100.1202 are redesignated § 100.1103 and 100.1104, respectively.

PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

36. The authority citation for Part 174 is revised to read as follows:

Authority: 46 U.S.C. 4302, 12302; 49 CFR 1.46.

37. Section 174.121 is revised to read as follows:

§ 174.121 Forwarding of casualty or accident reports.

Within 30 days of the receipt of a casualty or accident report, each state that has an approved numbering system must forward a copy of that report to the Commander of the Coast Guard District in which the state capitol is located, except that Ohio and Minnesota must forward reports to Commander, Ninth Coast Guard District, Cleveland, Ohio.

Dated: June 29, 1987.

R.E. Kramek,

CAPT., U.S. Coast Guard, Chief of Staff, Acting.

[FR Doc. 87-15058 Filed 7-2-87; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42083A; FRL-3228-9]

Tetrabromobisphenol A; Final Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing a final test rule, under section 4 of the Toxic Substances Control Act (TSCA), requiring manufacturers and processors of tetrabromobisphenol A (TBBPA, CAS No. 79-94-7) to perform testing for chemical fate and environmental effects. The testing requirements include biodegradation studies in sediment/water and soil, an acute toxicity study in a freshwater alga, acute and early life stage toxicity studies in fish, a partial life-cycle toxicity study in a benthic invertebrate, a chronic toxicity study in an aquatic invertebrate, and bioconcentration studies in fish and invertebrates.

DATES: In accordance with 40 CFR 23.5, this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern (daylight or standard as appropriate) time on July 20, 1987. These regulations shall become effective on August 19, 1987. The incorporation by reference in the regulations is approved by the Director of the Federal Register as of July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Edward 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 TBBPA.

I. Introduction

A. Test Rule Development Under TSCA

This final rule 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 (chemicals).

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical 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.

A more complete discussion of the statutory section 4 findings is provided in the Agency's first proposed test rule published in the **Federal Register** of July 18, 1980 (45 FR 48510).

B. Regulatory History

The Interagency Testing Committee (ITC) designated TBBPA for priority testing consideration in its 16th Report, published in the **Federal Register** on May 21, 1985 (50 FR 20930). It was recommended by the ITC that TBBTA be considered for chemical fate testing, including water solubility, soil adsorption coefficient, and persistence; environmental effects testing, including acute and chronic toxicity to fish, aquatic invertebrates and algae; and bioconcentration potential in fish.

EPA responded to the ITC's recommendations for TBBPA by issuing a proposed rule, published in the **Federal Register** of May 15, 1986 (51 FR 17872), which would require that TBBPA be tested for biodegradation in sediment/water, soil, and sludge, acute toxicity in freshwater algae, fish, and invertebrates, early life stage toxicity in fish, chronic toxicity to invertebrates, and bioconcentration potential in fish and invertebrates. In addition, the Agency proposed to include tests to determine the toxicity of TBBPA to benthic organisms in the final rule for TBBPA if any of the sediment bioassay methods referenced in the proposed rule were determined to be appropriate or if the comments received on the proposed rule indicated the availability of other appropriate sediment bioassay methods.

The proposed rule contained a chemical profile of TBBPA, a discussion of EPA's TSCA section 4(a) findings, and the proposed test standards to be used.

II. Response to Public Comments

The Agency received written comments on the TBBPA proposed rule from the Brominated Flame Retardant Industry Panel (BFRIP or the Panel) on July 14, 1986 (Ref. 1). Ameribrom Inc., Ethyl Corporation, Great Lakes Chemical Corporation, and Dow Chemical Company are members of BFRIP. Ethyl and Great Lakes are the only manufacturers of TBBPA in the U.S.; Ameribrom is the only known importer of TBBPA; and Dow is one of the many U.S. processors of TBBPA. A public meeting was also requested by BFRIP and was held on August 21, 1986. The comments received by the Agency in response to the TBBPA proposed rule are discussed below.

A. The "May Present an Unreasonable Risk" Finding

The Great Lakes Chemical Company commented that the Agency has used outdated and flawed information, monitoring data from Research Triangle Institute (RTI), to reach decisions on the proposed tests, and therefore, has not satisfied the statutory requirement of section 4(a)(1)(A)(i) of TSCA (Refs. 2 and 3). Great Lakes claims that, in the 9 years since the RTI data were generated, it has made many improvements in the handling of process wastes, and procedures are now employed to either contain or recycle all byproducts and process wastes.

The Agency disagrees with the comments from Great Lakes that the statutory requirement of section 4(a)(1)(A)(i) of TSCA has not been satisified. The Agency uses a weight-of-evidence approach in making a section 4(a)(1)(A)(i) finding in which both exposure and toxicity information are considered to make the finding that the chemical substance may present an unreasonable risk. The stronger the Agency's scientific basis for suspecting potential toxicity, the fewer exposure data are needed to support the potential risk finding. In the case of TBBPA, the Agency believes that the monitoring data from RTI (Ref. 3) and the limited set of current monitoring data from Great Lakes (Ref. 4), received following submission of comments on the proposed rule, provide evidence that TBBPA has been released and continues to be released to the environment. The RTI study reported detection of TBBPA in sediments at levels up to 330 parts per million (ppm) and soils at levels up to 150 ppm near a TBBPA production site. The Great Lakes monitoring data represent results from analysis of TBBPA in five soil/sediment samples obtained from locations that were either a part of the earlier RTI study or from some undisclosed locations. TBBPA was detected in four of the five samples from Great Lakes at levels ranging between 5.4 ppm and 106 ppm. Although data from Great Lakes show reduced levels of TBBPA, in comparison to the levels reported by RTI in 1978, at two sampling locations, this information is too sparse and does not significantly alleviate the Agency's concern for release of TBBPA into the environment considering TBBPA's high aquatic toxicity. TBBPA is likely to enter the environment as a result of inadequate treatment and disposal of wastes generated from the TBBPA manufacturing process, from drying and packaging operations, from transport of TBBPA and wastes containing TBBPA, and from use of TBBPA as an additive flame retardant. Release levels have been submitted by the manufacturers of TBBPA under section 8(a) of TSCA as confidential business information (CBI). The available physical/chemical data (i.e., low water solubility and log P of 4.5) and the available data for acute toxicity to marine algae, invertebrates and fish (i.e., EC_{50} or LC_{50} <1 mg/L) demonstrate the potential for TBBPA to bioconcentrate and to cause chronic toxicity in aquatic organisms.

B. Notification to Foreign Governments

Great Lakes Chemical Company commented that EPA should interpret section 12(b) of TSCA to require no notification to foreign governments until test data are available (Ref. 2).

Section 12(b) of TSCA requires any person who exports or intends to export a chemical substance or mixture to notify EPA of such exportation to a particular country if data are required under section 4 for that chemical. EPA is required to send the importing country a notice to identify the regulated chemical and indicate the availability of the test data on the chemical. The Agency has interpreted section 12(b) of TSCA to apply at the time a final rule is promulgated under section 4 of TSCA, since this represents the Agency's commitment to proceed with data collection with respect to specific chemicals. While the results of required testing may not be available for some

time, a notice to the foreign government about the export of such a chemical serves to alert it to the Agency's interest in the chemical. It gives the government the opportunity to request data that the Agency may currently possess plus whatever data may become available as a result of section 4 testing activities. EPA is continuing to review issues relating to the application of section 12(b) requirements to exporters of section 4 chemicals. However, EPA is not prepared to change its interpretation in the context of this rule.

C. Chemical Fate

1. *Biodegradability Test in Water*

The Panel commented that because of TBBPA's tendency to partition from water into sediment, testing for biodegradability in water will provide only limited useful information on the chemical fate of TBBPA.

The test methodology proposed by the Agency for this test (Core-Chamber Method by Bourquin et al.), however, provides data on biodegradability (i.e., rate of carbon dioxide evolution and extent of transformation) of the chemical in a combined sediment/water environment (Ref. 5).

2. Inherent Biodegradability: Modified Semi-continuous Activated Sludge (SCAS) Test

The Panel recommended using the results to be obtained from the inherent biodegradability in soil test to predict biodegradation of TBBPA in activated sludge because biodegradation is due to the same types of bacteria in both.

EPA believes many differences exist between soil and activated sludge which influence their bacterial composition and activity (i.e., moisture, temperature, pH, etc.). However, the review of information collected following the proposed rule shows that activated sludge is not currently being used in treatment of TBBPA process wastes. Therefore, the modified SCAS test, which provides data on biodegradability of a chemical substance in activated sludge, is not being required in this final rule.

D. Environmental Effects

1. Activated Sludge Respiration Inhibition Test

The Agency is not requiring this test in the final rule because there is no need to determine the inhibitory concentration in sludge if activated sludge is not being used in the treatment of TBBPA wastes and the SCAS test is not being performed.

2. Algal Acute Toxicity Test for Freshwater Algae

The Panel recommends using the marine algae data generated by the Agency at its Gulf Breeze facility to make an assessment of the toxicity to freshwater algae (Ref. 6).

The Agency disagrees with the Panel's recommendation because there are insufficient comparative toxicology data available for organic chemicals structurally related to TBBPA to demonstrate that the sensitivities of marine and freshwater algae are similar.

3. Gammarus Acute Toxicity Test

The Panel claims that acceptable culturing and testing guidelines are not available for *Gammarus* and that lack of published data on *Gammarus* will not allow for the relative assessment of the toxicity results.

The Agency has published an adequate test guideline for *Gammarus* and published data on *Gammarus* are also available. However, following the publication of the TBBPA proposed rule, the Agency received data on acute toxicity of TBBPA to mysid shrimp (*Mysidopsis bahia*) from its Gulf Breeze facility (Ref. 7) and, therefore, does not see any further need to require another acute toxicity test with an invertebrate at this time.

4. Daphnid Chronic Toxicity Test

The Panel agrees that a daphnid chronic toxicity study will provide useful information in evaluating the environmental effects of TBBPA. However, it recommends the test be performed by a static renewal method instead of in a flow-through system because of the difficulty in providing adequate algal food for the daphnids in a flow-through system.

The Agency believes that a static renewal method can provide reliable information as long as the TSCA test guideline is followed and the test substance (TBBPA) is maintained at the desired concentration within the test chambers through periodic measurements of its concentration between the renewal periods. While EPA prefers that this test be performed in a flow-through system, the final rule permits use of either flow-through or static renewal method.

5. Fish Early Life Stage Toxicity Test

The Panel commented that EPA provides no justification for its proposal to use a 96-hour LC_{50} of 0.40 mg/L as the point for deciding whether fathead minnows or rainbow trout are to be used to conduct the fish early life stage toxicity test. The Panel recommends that fathead minnows be used in any fish early life stage toxicity testing, even if the 96-hour LC_{50} is greater than 0.40 mg/L, because testing laboratories have experienced considerable difficulty in reaching the percent hatchability of green eggs required for the rainbow trout test to be valid.

The Agency cited the LC_{50} value of rainbow trout (0.40 mg/L) as a means to ensure that a sensitive fish species is tested for chronic toxicity (Ref. 8). It is possible that there can be substantial variation in LC_{50}'s as a result of minor differences in test water, procedures, fish stock, and other variables between laboratories. Therefore, the final rule provides that if the fathead minnow LC_{50} is any value in the range between 0.08–2.0 mg/L, five times below or above the LC_{50} value for rainbow trout, either species may be used for the early life stage toxicity test. If the LC_{50} value for fathead minnow is equal to or greater than 2.0 mg/L, then rainbow trout must be used in this test in accordance with the stated guideline.

6. Bioconcentration Test in Fish (Fathead Minnows)

The Panel commented that the study with bluegill sunfish submitted to EPA in the TSCA section 8(d) data reporting provides a sound basis for evaluating the bioconcentration potential of TBBPA in fish (Ref. 9).

The Agency finds the bioconcentration study with bluegill submitted by the Panel to be unreliable (i.e., loading was very high, environmental variables were not reported, etc.). The Agency's concerns with this study were communicated to a Panel member along with a request for submission of any additional information that could eliminate these concerns. There was no response from the Panel member on this matter. Therefore, a bioconcentration study in fish is included as a requirement in the final rule.

7. Bioconcentration Test in Oysters

The Panel commented that the proposed 1-year reporting requirement will not allow sufficient time to conduct the testing because the study for bioconcentration in oysters requires the acute toxicity test with oysters as a range-finding study, and because oyster studies usually can be performed only from April to September without supplementing food. The Panel recommends that 2 years be permitted for this study.

The Agency believes that adding 6 months to the proposed 1-year reporting

requirement will be sufficient to conduct the testing.

III. Final Test Rule for TBBPA

A. Findings

EPA is basing its final chemical fate and environmental effects testing requriements for TBBPA on the authority of section 4(a)(1)(A) of TSCA.

EPA finds that the manufacture, processing, use, and disposal of TBBPA may present an unreasonable risk of injury to the environment because TBBPA has the potential to persist in the environment, bioconcentrate in aquatic organisms, and cause adverse effects in aquatic and benthic organisms. These findings are based on the evidence of exposure, available physical/chemical data, and available toxicity data discussed in Unit II of this preamble and in Unit II of the preamble to the proposed rule.

EPA also finds that the available data on TBBPA are inadequate to fully characterize the chemical fate and environmental effects following release of TBBPA to the environment.

The structure of TBBPA suggests, by analogy to other polyhalogenated compounds, that TBBPA may be persistent. Biodegradation studies in sediment/water and soil are needed to reasonably determine TBBPA's persistence in the environment.

There is also the potential, based on its estimated bioconcentration factor of 1,300, for TBBPA to bioconcentrate in aquatic organisms. Tests with aquatic organisms are required to accurately measure TBBPA's ability to bioconcentrate.

As discussed in the preamble to the proposed rule, the existing acute toxicity date for aquatic organisms experimentally exposed to TBBPA demonstrate that TBBPA can be expected to be acutely toxic to aquatic organisms at low to moderate concentrations and to be chronically toxic to fish and aquatic invertebrates at very low concentrations. From EPA's evaluation of the available toxicity data, the experimental acute toxicity data for freshwater algae and one additional fish species exposed to TBBPA are necessary to determine whether freshwater algae are more sensitive than marine algae and to determine the relative sensitivity of different fish species. EPA also finds that there are no toxicity data on benthic organisms and no chronic effects data on fish and aquatic invertebrates.

EPA finds that sufficient data are available for water solubility, log Kow, log Koc, and acute toxicity to marine unicellular algae and aquatic invertebrates to reasonably determine or predict these characteristics for TBBPA.

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, use, or disposal of TBBPA 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 chemical fate and environmental effects testing be conducted for TBBPA in accordance with specific test guidelines set forth in 40 CFR Parts 796, 797, and 798. Revisions to these guidelines were proposed in the **Federal Register** of January 14, 1986 (51 FR 1522), and were promulgated in the **Federal Register** of May 20, 1987 (52 FR 19056).

In the aquatic environment, TBBPA is expected to partition strongly to sediment based on its log P value of 4.5 Therefore, the Agency believes that determining the toxicity of TBBPA to benthic organisms is important in characterizing the environmental effects of TBBPA. Since the Agency did not receive any comments on the sediment bioassay methods referenced in the proposed rule or on the availability of alternate sediment bioassay methods, the Agency is requiring that testing the toxicity of TBBPA to benthic organisms be conducted in accordance with the method it has selected as being appropriate from those referenced in the proposed rule.

1. Chemical fate tests to be conducted for TBBPA are: (a) biodegradability in sediment/water, using the Core-Chamber Method described by Bourquin et al. (Ref. 5) and (b) aerobic and anaerobic biodegradability in soil, using the guideline at 40 CFR 796.3400.

2. Environmental effects tests to be conducted for TBBPA are: (a) acute toxicity to freshwater algae, *Selenastrum capricornutum*, using the test guideline at 40 CFR 797.1050; (b) acute toxicity to *Pimephales promelas* (fathead minnow) in a flow-through system, using the guideline at 40 CFR 797.1400; (c) partial life-cycle toxicity to the midge (*Chironomus tentans*) conducted in a flow-through system using TBBPA-spiked clean, freshwater sediments having low, medium, and high organic carbon content in accordance with the method described by Adams et al. (Ref. 10); (d) chronic toxicity to the invertebrate *Daphnia*, tested in a renewal or a flow-through system, using the guideline at 40 CFR 797.1330; (e) early life stage toxicity to fish conducted in a flow-through system, using the guideline at 40 CFR 797.1600 (the test species for the fish early life stage test is fathead minnow (*Pimephales promelas*) if the LC_{50} value for fathead minnow is equal to or less than 0.08 mg/L, either fathead minnow or rainbow trout if the 96-hour LC_{50} for fathead minnow is in the range between 0.08–2.0 mg/L, and rainbow trout if the 96-hour LC_{50} for fathead minnow is greater than or equal to 2.0 mg/L); (f) bioconcentration in the fathead minnow (*Pimephales promelas*) using the guideline at 40 CFR 797.1520; and (g) bioconcentration in the oyster (*Crassostrea virginica*) using the guideline at 40 CFR 797.1830.

The Agency is requiring that the above referenced TSCA Chemical Fate and Environmental Effects Test Guidelines and revisions and other cited methods be the test standards for the purposes of the required tests for TBBPA. The TSCA test guidelines for chemical fate and aquatic toxicity testing specify generally accepted minimum conditions for determining chemical fate and aquatic organism toxicities for substances like TBBPA to which aquatic life is expected to be exposed.

The required methods of Bourguin et al. (1977) for investigating the biodegradation rate of TBBPA in sediment/water and Adams et al. for investigating the toxicity of TBBPA to benthic organisms specify generally accepted minimum conditions (Refs. 5 and 10). The Agency believes that these test methods reflect the current state-of-the-science for testing the fate and effects of chemicals such as TBBPA in sediment/water systems.

C. Test Substance

EPA is requiring that TBBPA of greater than 98 percent purity shall be used as the test substance. TBBPA of such purity is available according to comments received from the Panel (Ref. 1).

D. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the Agency makes section 4(a) findings (manufacture, processing, distribution in commerce, use, and/or disposal) determine who bears the responsibility for testing a chemical. 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 in commerce, or disposal.

Because EPA has found that manufacturing, processing, use, and disposal of TBBPA give rise to exposure that may lead to an unreasonable risk, EPA is requiring that persons who manufacture or process, or who intend to manufacture or process, TBBPA, other than as an impurity, at any time from the effective date of the 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 of 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 other reimbursement mechanisms. 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 TBBPA. As noted in Unit III.C., EPA is interested in evaluating the effects attributable to TBBPA 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.

E. Reporting Requirements

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.

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 required test follow:

The biodegradation studies in sediment/water and soil, the acute toxicity studies in freshwater algae and fish, and the bioconcentration study in fish 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 for each of these studies shall be provided to the Agency 6 months after the effective date of this rule.

The bioconcentration study in oyster shall be completed and the final results submitted to EPA within 18 months of the effective date of the final test rule. The fish early life stage toxicity study, the midge partial life-cycle toxicity study in sediments, and the daphnid chronic toxicity study 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 for each of these studies shall be provided to the Agency at 6 month intervals after the effective date of this rule, until the final report is submitted to EPA.

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. In brief, as of the effective date of this test rule, an exporter of TBBPA must report to EPA the first annual export or intended export of TBBPA to any one country. EPA will notify the foreign country concerning the test rule for the chemical.

F. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 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 TSCA 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 the final rule for TBBPA. These inspections may be conducted for purposes which include verification that testing has begun, schedules are being met, and reports accurately reflect the underlying raw data, interpretations, and evaluations, and 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 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 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 provisions of section 16 of TSCA, any person who violates section 15 of TSCA 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 such 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)). Knowing or willful 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 the 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 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 impact 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 TBBPA: (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 will be 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 final rule for TBBPA are estimated to range from $141,790 to $184,640. In order to predict the financial decisionmaking 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 test costs (using a cost of capital of 25 percent over a period of 15 years) range from $35,448 to $46,160. Based on the lower bound of the 1984 estimated production volume for TBBPA of 59.8 million pounds to 83.7 million pounds, the unit test costs will range from about 0.06 to 0.08 cents per pound. In relation to the selling price of $1.16 per pound for TBBPA, these costs are equivalent to 0.05 to 0.07 percent of price.

Based on these costs and the uses of TBBPA, 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 following observations:

1. The estimated unit test costs are very low, 0.07 percent of current price in the upper-bound case;
2. The overall demand for TBBPA appears relatively inelastic;
3. Producers of TBBPA may exercise a degree of control over price; and
4. The market expectations for TBBPA end use products appear favorable.

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 National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161 (PB 82-1407730). 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 record for this rulemaking proceeding [docket number OPTS-42083A]. This record includes:

A. Supporting Documentation

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

(a) Notice containing the ITC designation of TBBPA to the Priority List (50 FR 20930; May 21, 1985).

(b) Rules requiring TSCA section 8(a) and 8(d) reporting on TBBPA (50 FR 20910; May 21, 1985).

(c) Notice of EPA's proposed test rule on TBBPA (51 FR 17872; May 15, 1986).

(d) TSCA test guidelines final rule (40 CFR Parts 796, 797, and 798; September 27, 1985).

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

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

(g) TSCA GLP standards (48 FR 53992; November 29, 1983).

(2) Support documents consisting of:

(a) TBBPA technical support document for proposed rule (Syracuse Research Corporation; November 15, 1985).

(b) Economic impact analysis of final test rule for TBBPA.

(3) Communications consisting of:

(a) Written public comments.

(b) Transcripts of public meeting.

(c) Summaries of phone conversations.

(4) Reports—published and unpublished factual materials.

B. References

(1) Comments from the Brominated Flame Retardant Industry Panel (BFRIP) on EPA's Proposed Test Rule for Tetrabromobisphenol A to Public Information Office, USEPA (July 14, 1986).

(2) Copy of comments presented by David L. McAllister of Great Lakes Chemical Corporation on EPA's Proposed Test Rule for Tetrabromobisphenol A at a public meeting. (August 21, 1986).

(3) U.S. Environmental Protection Agency. Environmental Monitoring Near Industrial Sites: Brominated Chemicals (Part I). Washington, DC, Office of Toxic Substances, USEPA. Contract 68-01-1978. EPA-560/6-78-002. (1978).

(4) Great Lakes Chemical Corp., West Lafayette, IN 47906. Report on soil analysis for Tetrabromobisphenol A from Great Lakes Chemical Corp. Letter with results on sample analysis from D.L. McAllister to Narendra Chaudhari, Washington, DC, Office of Toxic Substance, USEPA (March 4, 1987).

(5) Bourquin, A.W., Hood, M.A., and Garnas, R.L., "An artificial microbial ecosystem for determining effects and fate of toxicants in a salt-marsh environment."

Developments in Industrial Microbiology 18:185–191 (1977).

(6) U.S. Environmental Protection Agency, Environmental Research Laboratory, Gulf Breeze, FL 32561. Preliminary report on effects of TBBPA on marine unicellular algae. Memorandum from G.E. Walsh to Steve Ells, Washington, DC, Office of Toxic Substances, USEPA (August 9, 1985).

(7) U.S. Environmental Protection Agency, Environmental Research Laboratory, Gulf Breeze, FL 32561. Acute toxicity of tetrabromobisphenol A to mysids. Memorandum from L.R. Goodman to Narendra Chaudhari, Washington, DC, Office of Toxic Substances, USEPA (September 22, 1986).

(8) Great Lakes Chemical Corp., West Lafayette, IN 47906. Acute toxicity of TBBPA to bluegill sunfish (Project #11506–03–50) and rainbow trout (Project #11506–03–51). Letter with attached studies from D.L. McFadden to Narendra Chaudhari, Washington, DC, Office of Toxic Substances, USEPA (August 1, 1985).

(9) Great Lakes Chemical Corp., West Lafayette, IN 47906. The bioaccumulation of tetrabromobisphenol A in the bluegill sunfish. Letter with attached studies from D.L. McFadden to Narendra Chaudhari, Washington, DC, Office of Toxic Substances, USEPA (August 1, 1985).

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

(11) U.S. Environmental Protection Agency. Economic Impact Analysis of Final Test Rule for Tetrabromobisphenol A. Washington, DC, Office of Toxic Substances, USEPA (March 24, 1987).

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; and (3) they are unlikely to be affected by reimbursement 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 number 2070–0033.

List of Subjects in 40 CFR Part 799

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

Dated: June 26, 1987.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

PART 799—[AMENDED]

Therefore, 40 CFR Part 799 is amended as follows:

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

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

2. Section 799.4000 is added to read as follows:

§ 799.4000 Tetrabromobisphenol A.

(a) *Identification of test substance.* (1) Tetrabromobisphenol A (TBBPA, CAS No. 79–94–7) shall be tested in accordance with this section.

(2) Tetrabromobisphenol A of at least 98 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 (including import) or process or intend to manufacture or process tetrabromobisphenol A, other than as an impurity, after August 19, 1987, to the end of the reimbursement period shall submit letters of intent to conduct testing, submit study plans, conduct tests, and submit data or submit exemption applications as specified in this section, Subpart A of this Part, and Parts 790 and 792 of this chapter for single-phase rulemaking.

(c) *Chemical fate*—(1) *Biodegradability in sediment/water*—(i) *Required testing.* Biodegradation testing in sediment/water shall be conducted with TBBPA using clean, freshwater sediments in accordance with the method described in an A.W. Bourquin 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, which is incorporated by reference. The method is available from the Office of the Federal Register Information Center, 11th and L St., NW., Washington, DC, 20408, and in the EPA OPTS Reading Room, Rm. G–004 Northeast Mall, 401 M St., SW., Washington, DC 20460. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The method is incorporated as it exists on the effective date of the final rule and a notice of any change to the method will be published in the **Federal Register**.

(ii) *Reporting requirements.* (A) The biodegradation test in sediment/water shall be completed and the final report submitted to EPA within 1 year of the effective date of the final rule.

(B) An interim progress report shall be submitted to EPA 6 months after the effective date of the final rule.

(2) *Inherent biodegradability in soil*—(i) *Required testing.* Inherent biodegradability in soil tests to assess aerobic and anaerobic biodegradability shall be conducted with TBBPA in accordance with § 796.3400 of this chapter.

(ii) *Reporting requirements.* (A) The inherent biodegradability in soil tests shall be completed and the final report submitted to EPA within 1 year of the effective date of the final rule.

(B) An interim progress report shall be submitted to EPA 6 months after the effective date of the final rule.

(d) *Environmental effects*—(1) *Algal acute toxicity*—(i) *Required testing.* Algal acute toxicity testing shall be conducted with TBBPA using *Selenastrum capricornutum* in accordance with § 797.1050 of this chapter.

(ii) *Reporting requirements.* (A) The algal acute toxicity test shall be completed and the final report submitted to EPA within 1 year of the effective date of the final rule.

(B) An interim progress report shall be submitted to EPA 6 months after the effective date of the final rule.

(2) *Fish acute toxicity*—(i) *Required testing.* Fish acute toxicity testing shall be conducted with TBBPA using *Pimephales promelas* (fathead minnow)

in accordance with § 797.1400 of this chapter.

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

(B) An interim progress report shall be submitted to EPA 6 months after the effective date of the final rule.

(3) *Midge partial life-cycle toxicity in sediments*—(i) *Required testing.* A 14-day toxicity test in a flow-through system shall be conducted with the midge (*Chironomus tentans*) using TBBPA-spiked clean, freshwater sediments having low, medium, and high organic carbon content in accordance with the American Society for Testing and Materials Special Technical Publication 854 (ASTM STP 854), entitled "Aquatic Safety Assessment of Chemicals Sorbed to Sediments," by W.J. Adams et. al., and published in *Aquatic Toxicology and Hazard Assessment: Seventh Symposium,* ASTM STP 854, pp. 429–453, R.D. Cardwell et. al., Eds. 1985, which is incorporated by reference. The method is available from the Office of the Federal Register Information Center, 11th and L St., NW., Washington, DC, 20408, and in the EPA OPTS Reading Room, Rm G–004 Northeast Mall, 401 M St., SW., Washington, DC 20460. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The method is incorporated as it exists on the effective date of this rule and a notice of any change to the method will be published in the **Federal Register.**

(ii) *Reporting requirements.* (A) The 14-day toxicity test with midge using sediments shall be conducted and the final report submitted to EPA within 2 years of the effective date of the final rule.

(B) Interim progress reports shall be submitted to EPA at 6-month intervals beginning 6 months after the effective date of the final rule, until the final report is submitted to EPA.

(4) *Daphnid chronic toxicity*—(i) *Required testing.* Daphnid chronic toxicity testing shall be conducted with TBBPA using *Daphnia magna* or *D. pulex* in accordance with § 797.1330 of this chapter.

(ii) *Reporting requirements.* (A) The daphnid chronic toxicity test shall be completed and the final report submitted to EPA within 2 years of the effective date of the final rule.

(B) Interim progress reports shall be submitted to EPA at 6-month intervals beginning 6 months after the effective date of the final rule, until the final report is submitted to EPA.

(5) *Fish early life stage toxicity*—(i) *Required testing.* A fish early life stage toxicity test shall be conducted with TBBPA. The test species shall be fathead minnow (*Pimephales promelas*) if the 96-hour LC_{50} for fathead minnow conducted in accordance with paragraph (d)(2) of this section is equal to or less than 0.08 mg/L; the test species shall be either fathead minnow or rainbow trout if the 96-hour LC_{50} for fathead minnow is between 0.08–2.0 mg/L; the test species shall be rainbow trout if the 96-hour LC_{50} for fathead minnow is greater than or equal to 2.0 mg/L. The fish early life stage toxicity test shall be conducted in accordance with § 797.1600 of this chapter.

(ii) *Reporting requirements.* (A) The fish early life stage toxicity test shall be completed and the final report submitted to EPA within 2 years of the effective date of the final rule.

(B) Interim progress reports shall be submitted to EPA at 6-month intervals beginning 6 months after the effective date of the final rule, until the final report is submitted to EPA.

(6) *Bioconcentration in fish*—(i) *Required testing.* A bioconcentration test shall be conducted with TBBPA using *Pimephales promelas* (fathead minnow) in accordance with § 797.1520 of this chapter.

(ii) *Reporting requirements.* (A) The bioconcentration test in fish shall be completed and the final report submitted to EPA within 1 year of the effective date of the final rule.

(B) An interim progress report shall be submitted to EPA 6-months after the effective date of the final rule.

(7) *Bioconcentration in oyster*—(i) *Required testing.* A bioconcentration test shall be conducted with TBBPA using *Crassostrea virginica* (oyster) in accordance with § 797.1830 of this chapter.

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

(B) Interim progress reports shall be submitted to EPA at 6-month intervals beginning 6 months after the effective date of the final rule, until the final report is submitted to EPA.

(e) *Effective date.* The effective date of the final rule is August 19, 1987.

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

[FR Doc. 87–15241 Filed 7–2–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–348; RM–5357]

Radio Broadcasting Services; Laurel, DE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 237A to Laurel, Delaware, as a first FM channel at the request of Troy D. Hill. With this action, this proceeding is terminated.

DATES: August 13, 1987. The window period for filing applications will open on August 14, 1987, and close on September 14, 1987.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–348, adopted June 11, 1987, and released June 29, 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, in the entry for Laurel, Delaware, Channel 237A is added.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87–15208 Filed 7–2–87; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 86-349; RM-5358]

Radio Broadcasting Services; Valdosta, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 239C2 for Channel 240A at Valdosta, Georgia, and modifies the Class A license for Station WLGA(FM) to specify Channel 239C2, at the request of the licensee, Metro Media Broadcasting, Inc. With this action, this proceeding is terminated.

EFFECTIVE DATE: August 13, 1987.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-349, adopted June 10, 1987, and released June 29, 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended for Valdosta, Georgia, by adding Channel 239C2 and deleting Channel 240A.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-15209 Filed 7-2-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-74; RM-5169]

Radio Broadcasting Services; De Witt, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 243A to De Witt, Michigan, as that community's first FM broadcast service, in response to a petition filed by William S. Gannon. Canadian concurrence has been obtained for the allocation of Channel 243A at De Witt, Michigan. With this action, this proceeding is terminated.

DATES: August 13, 1987. The window period for filing applications will open on August 14, 1987, and close on September 14, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-74, adopted May 29, 1987, and released June 29, 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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan is amended by adding FM Channel 243A at De Witt.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-15210 Filed 7-2-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-431; RM-5417]

Radio Broadcasting Services; Albert Lea, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 241A to Albert Lea, Minnesota, in response to a petition filed by Albert Lea Communications. The allocation could provide Albert Lea with its second FM broadcast service. With this action, this proceeding is terminated.

DATES: Effective August 13, 1987. The window period for filing applications will open on August 14, 1987, and close on September 14, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-431, adopted June 11, 1987, and released June 29, 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments is amended under Albert Lea, Minnesota, by adding Channel 241A.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-15211 Filed 7-2-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-420; RM-5446]

Radio Broadcasting Services; Atwater, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 231A to Atwater, Minnesota, in response to a petition filed by Norman Jones. The allocation could provide Atwater with its first FM broadcast service. There is a site restriction 5.5 kilometers south of the community. With this action, this proceeding is terminated.

DATES: Effective August 13, 1987 The window period for filing applications will open on August 14, 1987, and close on September 14, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–420, adopted June 10, 1987, and released June 29, 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Minnesota, by adding Atwater, Channel 231A.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87–15212 Filed 7–2–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–399; RM–5504]

Radio Broadcasting Services; Dickson, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 273C2 for Channel 272A at Dickson, Tennessee, and modifies the license of Station WDKN–FM to specify operation on the new frequency, at the request of American Communications, Inc. A site restriction of 15.3 kilometers (9.5 miles) northwest of the community is required. With this action, this proceeding is terminated.

EFFECTIVE DATES: August 13, 1987.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–399, adopted June 11, 1987, and released June 29, 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Tennessee, by removing Channel 272A and adding 273C2 for Dickson.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–15213 Filed 7–2–87; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1313

[Ex Parte No. 387 (Sub-No. 960)]

Department of Defense Railroad Transportation Contracts; Exemption From Certain Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Final rule and exemption.

SUMMARY: The Commission is exempting all rail transportation contracts (other than agricultural commodity contracts) made by the Department of Defense (DOD) from the requirements of 49 U.S.C. 10713. DOD sought the exemption to prevent the public release of information about sensitive shipments. The final rule is set forth below.

DATE: The rule is effective on August 6, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7246.

SUPPLEMENTARY INFORMATION: The prior notice at 52 FR 5320, February 20, 1987, proposed inserting the rule at 49 CFR 1039.22. However, the Commission will publish the final rule at 49 CFR Part 1313, "Railroad Contracts Entered Into Pursuant to 49 U.S.C. 10713," a more appropriate location.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357.

The Commission certifies that the final rule will not have a significant impact on a substantial number of small entities, because the rule affects movements for the government, which ships on its own behalf. Further, other DOD regulations afford all qualified carriers, including smaller ones, an opportunity to participate on an equal basis in negotiations involving DOD shipments.

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

List of Subjects in 49 CFR Part 1313

Agricultural commodities, Forests and forest products, Railroads.

PART 1313—RAILROAD CONTRACTS ENTERED INTO PURSUANT TO 49 U.S.C. 10713

1. The authority citation for 49 CFR Part 1313 is revised to read as follows:

Authority: 49 U.S.C. 10321, 10505, and 10813; and 5 U.S.C. 553.

§ 1313.2 [Amended]

2. Section 1313.2 is amended by designating the existing text following the heading of paragraph (a) as paragraph (a)(1) and by adding a new paragraph (a)(2) to read as follows:

(a) * * *

(2) Railroad transportation contracts (other than agricultural commodity contracts) made by the United States Department of Defense are exempt from the requirements of 49 U.S.C. 10713.

* * * * *

Decided June 25, 1987.

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

Noreta R. McGee,

Secretary.

[FR Doc. 87–15189 Filed 7–2–87; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Status for the Florida Population of Audubon's Crested Caracara

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Audubon's crested caracara (*Polyborus plancus audubonii*) is a hawk that occurs from Florida, southern Texas and Arizona, and northern Baja California, south to Panama, and also on Cuba and the Isle of Pines. The Service hereby determines that the Florida population is a threatened species under the Endangered Species Act of 1973 (Act), as amended. Habitat loss appears to be the principal threat to this bird. This rule implements the protection and recovery provisions of the Act for the Florida population of Audubon's crested caracara.

EFFECTIVE DATE: August 5, 1987.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Endangered Species Field Station, 2747 Art Museum Drive, Jacksonville, Florida 32207.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley, Field Supervisor, at the above address (telephone 904/791–2580 or FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

John James Audubon (1834) discovered a crested caracara (*Polyborus plancus audubonii*) in Florida near St. Augustine (where it no longer occurs) on November 21, 1831, and published a full account of it under the name *Polyborus vulgaris*. Synonyms of the present scientific name are *Polyborus plancus cheriway, Polyborus cheriway audubonii* and *Caracara cheriway audubonii*. The Service follows the American Ornithologists' Union (1983) for usage of the generic and specific names *Polyborus plancus* and the American Ornithologists' Union (1957) in the use of the subspecific name *audubonii* for the Florida (and elsewhere) population of this caracara. In addition to the vernacular name Audubon's crested caracara, the bird is also known as Aududon's caracara, the caracara eagle, the Mexican eagle, the Mexican buzzard, and the king buzzard.

The crested caracara is about the size of an osprey, except for shorter wings, with a length of 535 to 585 millimeters (21 to 23 inches), wingspread of about 1220 millimeters (48 inches), and a tail length of 205 to 250 millimeters (8 to 10 inches). The caracara has yellow legs, which are very long for a hawk, and a massive bluish bill. Sexes are similarly plumaged; younger birds are browner than adults. A complete description can be found in the numerous and readily available bird identification books.

Polyborus plancus audubonii occurs primarily from northern Baja California, southwestern Arizona, southern Texas, and central Florida, south to Panama and also on Cuba and the Isle of Pines. It is also found, rarely, in southern New Mexico and southwestern Louisiana. Other subspecies range into South America as far as Tierra del Fuego and the Falkland Islands. The Florida population is isolated from the remainder of the subspecies' range in the southwestern U.S. and Central America. This isolated population was at one time a common resident in the prairie region of central Florida, from northern Brevard County in the north, south to Fort Pierce, Lake Okeechobee, Rocky Lake (Hendry County), the Okaloosa as far north as Nassau County, and from as far south as the lower Florida Keys (Monroe County). Available evidence indicates that the range of this subspecies in Florida has experienced a long-term continuing contraction, with birds now rarely found as far north as Orlando or on the east side of the St. Johns River. The region of greatest abundance is a five-county area (Glades, De Soto, Highlands, Okeechobee, and Osceola) north and west of Lake Okeechobee (Sprunt 1954, Layne *in* Kale 1978, Layne 1985). Birds can still be found in Charlotte, Hardee, and Polk Counties. There is no evidence available to support possible migration or exchange of the Florida birds with other populations. Florida birds appear to remain there, and no caracaras from elsewhere are entering Florida.

Audubon's crested caracara is a bird of open country. Dry prairies with wetter areas and scattered cabbage palm (*Sabal palmetto*) constitute the typical habitat, although it also occurs in improved pasture lands and even in lightly wooded areas with more limited stretches of open grassland (Layne *in* Kale 1978). It is an opportunistic feeder; its diet includes both carrion and living prey. The living prey is largely small turtles and turtle eggs. In addition to these items, caracaras are known to feed on insects, fish, frogs, lizards, snakes, birds, and small mammals. A pair will sometimes join forces to subude a larger animal such as a rabbit or egret (Layne 1985). Sprunt (1954) noted that caracaras are frequently seen with vultures feeding on carrion.

Adult caracaras maintain large territories, usually with their mates. Pair bonds are strong, apparently persisting until one of the mates dies, and the pair remain close throughout the year. As the breeding season approaches, the pair begins to spend more time at the nest site. The nest, a bulky structure of slender vines and sticks, is usually located in a cabbage palm. The breeding peak is from January to March, with the usual clutch being two or three eggs. Incubation lasts about 32 days, and the young leave the nest at about 8 weeks of age. The family group usually remains together for two or three months after the young fledge (Layne 1985).

Based on early naturalists' notes, published accounts, and museum specimens it appears that caracaras in Florida have undergone a severe decline in numbers and distribution since the early 1930's. The major cause of this decline has been habitate loss. Habitat available to caracaras has decreased greatly, and continues to decrease, as native prairies and pasturelands are lost to real estate developments or intensive agricultural uses (Layne 1985).

In the early 1950's, the total Florida population of Audubon's crested caracara was estimated to be about 250 birds (Chandler *in* Sprunt 1954). In the late 1960's, Funderberg and Heinzman (1967) voiced concern over the decline of the Florida population. Heinzman (1970) published results of a 4 year survey (1967–1970) indicating fewer than 100 individuals in about 58 localities remained in the State. Stevenson (1975) assumed a similar population size for 1974. However, Layne (*in* Kale 1978), in a preliminary analysis of records from 1973 to 1975, arrived at a minimum estimate of 350 individuals. A more refined estimate, based on data gathered from 1973 to 1978, indicated the existence of about 150 active territories (300 adults), and about 100 immatures, giving a total population in Florida of between 400 and 500 individuals (Layne 1985).

Most caracaras occur on privately owned lands in the prairie region of central Florida. A few transient birds may wander east to the Merritt Island National Wildlife Refuge, Cape Canaveral Air Force Station, Patrick Air Force Base, and Kennedy Space Center, or north to Ocala National Forest. The only Federal land, however, on which the bird may be permanently resident is the Air Force's Avon Park Bombing Range in Polk and Highlands County.

However, bombing range personnel have informed the Service that, although caracaras are occasionally seen in the area, to the best of their knowledge none have nested there in recent years (Paul Ebersbach, pers. comm., December 5, 1985).

Audubon's crested caracara is classified as a threatened species by the Florida Committee on Rare and Endangered Plants and Animals (Kale 1978), and by the Florida Game and Fresh Water Fish Commission (Wood 1985). It was proposed under the Act for Federal listing as a threatened species on June 23, 1986 (51 FR 22838).

Summary of Comments and Recommendations

In the June 23, 1986, proposed rule 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 in the *Orlando Sentinel*, the *Sebring News*, and the *Polk County Democrat*, which invited general comment. Eighteen comments were received, none of which opposed the listing. Most of the comments reported recent observations or suggested possible future management techniques. The observations have been incorporated into the above summary of the species' status. The Service intends to prepare a recovery plan as soon as feasible and will review all suggestions on possible management options at that time. Other significant comments are abstracted below.

Dr. James N. Layne, of the Archbold Biological Station in Lake Placid, who was responsible for much of the biological data used in the June 23, 1986 proposal, feels that his estimate of about 300 adults and at least 100 or more immatures may be out of date. Limited field study by Dr. Layne since 1978, when he derived these estimates, leads him to believe that the species is on a slow decline. Within the past few years, there has been a dramatic acceleration of caracara habitat loss resulting from extensive development of citrus groves in former native prairie or improved pasture habitat.

Dr. Michael Brothers of the Daytona Museum of Arts and Sciences noted that Audubon's crested caracara is not presently a resident of Volusia County. He reported that the last, and only, record of this bird from Volusia County was from Enterprise (or Lake Monroe) taken 130 years ago in 1858. However, the Volusia County Council in its comments on the proposed rule, noted that Volusia County still contains habitat suitable for the birds' survival.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Florida population of Audubon's crested caracara should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Florida population of Audubon's crested caracara (*Polyborus plancus audubonii*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

The crested caracara in Florida is a bird of the open prairie country and nearby wetter areas, having scattered cabbage palms for nesting. Large areas of this type of habitat have been lost to citrus groves, tree plantations, improved pastures, other agricultural uses, and real estate development. As the growth rate of Florida's human population has increased and habitat loss has accelerated, the main portion of the caracara's range has contracted. Now the birds are rarely seen as far north as Orlando or on the east side of the St. Johns River.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Not applicable.

C. Disease or Predation

Not applicable.

D. The Inadequacy of Existing Regulatory Mechanisms

Both Federal (Migratory Bird Treaty Act, 16 U.S.C. 703–711) and State (Chapter 39–37, Florida Administrative Code) laws offer protection for the caracara, but they do not protect its habitat. Despite these laws, caracaras are still being killed in the erroneous belief that they are predators on newborn calves or because their large size and conspicuousness make them tempting targets for vandals (Layne *in* Kale 1978, Layne 1985). Large numbers of caracaras were apparently destroyed in vulture trapping operations in earlier years, and some are probably still being taken in illegal vulture traps (Layne *in* Kale 1978). Federal listing will strengthen existing protection and will add habitat protection through Section 7 and the recovery process.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Population growth in south-central Florida has resulted in increased numbers of roads and greater traffic. This, coupled with the caracara's predilection for feeding along roads has probably increased mortality (Layne *in* Kale 1978).

The current number of breeding caracaras (300 birds) is low relative to most other large raptors in Florida. In addition, these birds are long lived, have low reproductive rates, and have large, widely dispersed territories. These factors make the species very susceptible to natural or human caused catastrophies such as hurricanes and poisoning (pesticides, herbicides, etc.). In addition, the low number of caracaras in Florida may reduce the genetic viability of the population and make it more vulnerable to these stresses than would otherwise be the case. Finally, the scarcity of the birds, combined with their scattered territories, makes it difficult to detect changes in numbers. Thus, the caracara could experience a significant decline that might jeopardize the population before evidence of the decline became apparent. The caracara is highly vulnerable, and the Florida population should be closely monitored to ensure its continued health and survival.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Florida population of Audubon's crested caracara as a threatened species. Because this bird is still widespread in distribution, and appears to be reproducing satisfactorily, it is not in danger of extinction at the present time throughout all or a significant portion of its range. However, its habitat is rapidly being altered, its numbers (300 adult birds) are low for a raptor species, and it has a low reproductive rate. Thus, the bird is likely to become an endangered species in the foreseeable future.

For these reasons, the Florida population of Audubon's crested caracara is being listed as threatened rather than endangered. If the Service were to take no listing action for this

bird, it would not acknowledge the best scientific data available concerning the threats the caracara faces and would be contrary to the purposes of the Act. Critical habitat is not being determined for the Florida population of Audubon's crested caracara for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. Adult caracaras are spread very thinly over a wide area of southcentral Florida, and each pair maintains a large territory. A determination of critical habitat would necessitate delineating the precise boundaries occupied by each pair of birds. Not only are data lacking for these delineations, but they might actually be detrimental to the survival of the species in Florida. The caracara is a large and highly visible bird. To publish precise locality data and maps showing where birds occur (as would be required for a determination of critical habitat) might draw large numbers of people (including some vandals) to view them, who could inadvertently, or deliberately, interfere with the normal activities of the birds. This could pose an additional threat to the survival of the species in Florida.

Based on the above, the Service feels that a determination of critical habitat would not benefit the species, and might pose an additional threat to its survival. Therefore, a determination of critical habitat is not prudent for the conservation of the Florida population of the crested caracara.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The caracara is a wide ranging bird that could wander occasionally onto lands administered by the Fish and Wildlife Service (Merritt Island National Wildlife Refuge), National Aeronautics and Space Administration (Kennedy Space Center), Air Force (Cape Canaveral Air Force Station and Patrick Air Force Base), and the Forest Service (Ocala National Forest). At such times, these agencies will need to take reasonable and prudent measures to assure the protection and health of the birds. However, these Federal lands are outside the present primary range of the caracara; the birds would only be transient on them and would not be expected to nest or remain for any significant period of time. Therefore, there would be little or no effect on the above lands under Federal jurisdiction. It is possible that some future recovery actions (e.g., releasing birds) might occur on some Federal lands that have good habitat and long term management activities conducive to caracaras.

The Air Force's Avon Park Bombing Range in Polk and Highlands Counties is, however, within primary caracara range. Although Bombing Range personnel (Paul Ebersbach, pers. comm., December 5, 1985) report no nesting pairs on the Bombing Range at present, it is possible that caracaras might take up residence there at any time. With the publication of this final rule, the Air Force is now required to formally consult with the Service on any of its activities at the Range that are likely to jeopardize the continued existence of the caracara.

There would be no effect on the activities of private landowners as a result of listing this bird unless Federal funds or permits were involved in the activities. In such cases, the funding or permitting Federal agency must ensure that the activities would not jeopardize the continued existence of Audubon's crested caracara before providing the funds or issuing the permits to the private landowner. However, the Service is not aware of any cases at the present time where activities of private landowners would be affected by the listing.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, for incidental take in connection with otherwise lawful activities, for zoological exhibition, educational purposes, and/or special purposes consistent with the purposes of the Act. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available. Since the caracara is not in trade and is already protected under 50 CFR Part 10 (migratory bird regulations), such permits for economic hardship are not expected.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of 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 Cited

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Wood, D.A. (compiler). 1985. Official lists of endangered and potentially endangered fauna and flora in Florida. Florida Game and Fresh Water Fish Comm., 24 pp.

Author

The primary author of this final rule is John L. Paradiso, Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791–2580 or FTS 946/2580).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation 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 adding the following, in alphabetical order under BIRDS, to the List of Endangered and Threatened Wildlife:

§ 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						
BIRDS							
Caracara, Audubon's crested	*Polyborus plancus audubonii*	U.S.A. (AZ, FL, LA, TX, NM) south to Panama; Cuba.	U.S.A. (FL)	T	280	NA	NA

Dated: June 19, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–15182 Filed 7–2–87; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 6109–7046]

Groundfish of the Bering Sea and Aleutian Islands Area; Closure

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

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that U.S. fishing vessels working in joint ventures with foreign processing vessels (JVP) will have caught the 181,900 metric ton (mt) of yellowfin sole apportioned to JVP fisheries in the Bering Sea and Aleutian Islands (BSAI) area by noon, Alaska Daylight Time, on June 29, 1987. Therefore, the JVP fishery for yellowfin sole in the BSAI area is closed and yellowfin sole must be treated in the same manner as prohibited species if they are caught in JVP fisheries for other species. In addition, directed fishing for "other flatfishes" by domestic fishermen in JVP fisheries is prohibited in the Bering Sea subarea (1) east of 165 degrees west longitude and south of 56 degrees 30 minutes north latitude and (2) east of 170 degrees west longitude and north of 56 degrees 30 minutes north latitude. This action is necessary to prevent overfishing of yellowfin sole in the BSAI area. The intended effect is conservation of the yellowfin sole resource.

EFFECTIVE DATES: From noon, Alaska Daylight Time, June 29, 1987 until midnight, Alaska Standard Time, December 31, 1987.

FOR FURTHER INFORMATION CONTACT: Jay J. C. Ginter (Fishery Management Biologist, NMFS), 907–586–7229.

SUPPLEMENTARY INFORMATION: The domestic and foreign groundfish fisheries in the exclusive economic zone of the BSAI area are managed under the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP). Federal regulations implementing the FMP and governing domestic fisheries in the BSAI are at 50 CFR Part 675.

A principal purpose of these regulations is to prevent overfishing of the BSAI area groundfish resources. Annually, the Secretary of Commerce (Secretary), in consultation with the North Pacific Fishery Management Council (Council), specifies the total allowable catch (TAC) for each target species and the "other species" category. The TAC is based in part on a biological benchmark known as the equilibrium yield (EY). The EY for a species is a theoretically determined amount of that species that may be harvested without causing a decrease (or increase) in the future biomass of that species. Although exceeding the EY for any species does not necessarily result in overfishing, the NMFS views fishing mortality that exceeds the EY as increasing the risk of overfishing. For the 1987 fishing year, the Secretary set the TAC for yellowfin sole equivalent to its EY of 187,000 mt.

Authority to control the risk of overfishing is provided under § 675.20(a)(7), (8) and (9), as amended April 13, 1987 (52 FR 11992, April 14, 1987). This authority requires the Secretary to limit the catch of any groundfish species for which the TAC is nearly or has been fully harvested in fisheries for other groundfish species. Such limits may include (1) prohibition of directed fishing for the species for which the TAC is nearly fully harvested or (2) treatment of the species for which the TAC is fully harvested in the same

manner as a prohibited species § 675.20(c). Under § 675.20(a)(9), the Secretary may limit fishing for groundfish other than the species for which the TAC is achieved by any method, including area closures, gear restrictions, or prohibition of directed fishing, that will prevent overfishing of the species for which the TAC is achieved.

The Secretary interprets this authority to apply to the component parts of TAC. In addition to the JVP, these components include the amount of TAC apportioned to the total allowable level of foreign fishing (TALFF) and to U.S. vessels processing their catch on board or delivering it to U.S. processors (DAP). Hence, when the JVP for any species is fully harvested and reapportioning additional amounts from the reserve cannot be done without the risk of overfishing that species, then the Secretary must limit the catch of that species in JVP fisheries for other groundfish species.

The Regional Director has continuously monitored the weekly catches of yellowfin sole by JVP fisheries in the BSAI area since the beginning of the fishing year on January 1, 1987. Based on these catch data, the Regional Director has determined that the amount of yellowfin sole TAC apportioned to JVP fisheries (181,900 mt) will be fully harvested on June 29, 1987. Additional amounts cannot be reapportioned to JVP without significant risk of overfishing the yellowfin sole. Therefore, in accordance with § 675.20 (a)(8), the Secretary issues this notice requiring JVP fisheries in the BSAI area to cease fishing for yellowfin sole at noon on June 29, 1987, and to treat incidental catches of yellowfin sole in fisheries for other groundfish in the same manner as a prohibited species for the remainder of the fishing year.

In addition, the Regional Director has determined that JVP directed fishing for "other flatfishes" in certain areas of the Eastern Bering Sea may lead to overfishing of yellowfin sole due to the probability of high incidental catch rates of this species in such a directed fishery. The specific area where high incidental catches of yellowfin sole would be expected is that part of the Bering Sea subarea east of 165 degrees west longitude and south of 56 degrees 30 minutes north latitude and east of 170 degrees west longitude and north of 56 degrees 30 minutes north latitude. Directed fishing for "other flatfishes" by JVP vessels in the BSAI area outside of this specific area is not expected to produce such high incidental catches of yellowfin sole that overfishing of this species is likely. Therefore, in accordance with § 675.20(a)(9), the Secretary issues this notice prohibiting JVP fisheries from directed fishing for "other flatfishes" in the specific area defined above. "Directed fishing" is defined in § 675.2.

In making the above determinations, the Regional Director has considered the effects of allowing JVP fisheries for groundfish to continue based on the following findings.

Risk of Biological Harm

For purposes of this finding, the risk of biological harm means the risk of overfishing the yellowfin sole population in the BSAI area. Currently, only "other flatfishes" and Pacific cod have amounts of JVP large enough to warrant JVP directed fishing during the remaining 1987 fishing year. If there is a risk of overfishing yellowfin sole, that risk would come from the incidental catch of yellowfin sole in JVP directed fisheries for "other flatfishes" and Pacific cod. Incidental catches of yellowfin sole in DAP and TALFF fisheries for other groundfish species are provided for in the apportionment of the yellowfin sole TAC.

Approximately 65,000 mt of "other flatfishes" remain available to JVP fisheries in the BSAI area in the 1987 fishing year. The amount of incidentally caught yellowfin sole in a JVP directed fishery for "other flatfishes" is difficult to estimate since directed fishing for this mixed group of species is rare. "Other flatfishes" more commonly are caught incidentally in directed fisheries for yellowfin sole. However, this action closing the JVP yellowfin sole fishery is likely to prompt exploratory fishing for the significant quantity of "other flatfishes" remaining in the JVP apportionment. The catch data from the JVP yellowfin sole fishery during June through September 1986 indicate an average ratio of yellowfin sole to "other flatfishes" of 3 to 1. Although there are no similar data for JVP directed fishing for "other flatfish," it is reasonable to assume that incidental catches of yellowfin sole in such a fishery would be high due to the natural proximity of yellowfin sole with "other flatfishes." This action, will prohibit JVP directed fishing east of the 165/170 longitude described above. A resource assessment survey of groundfish done by the NMFS in the summer of 1986 indicates that the yellowfin sole population is distributed primarily in waters less than 100 fathoms in depth and east and north of the Pribilof Islands. Based on this distribution, NMFS scientists have estimated that approximately 90 percent of the yellowfin sole biomass in the Eastern Bering Sea is contained in the area being closed to directed fishing for "other flatfishes." Incidental catches of yellowfin sole west of the closure line are expected to be minimal because only a small portion of the population appears to exist there. Hence, the Regional Director finds that the prohibition against JVP directed fishing for "other flatfishes" east of the specified 165/170 longitude sufficiently protects the yellowfin sole resource from overfishing due to incidental catches in a potential "other flatfishes" directed fishery.

The other potential source of significant incidental catches of yellowfin sole is JVP directed fishing for Pacific cod. Approximately 53,000 mt of Pacific cod currently remain available to JVP fisheries. Based on previous years' performance of these fisheries, JVP directed fishing for Pacific cod is expected to occur primarily in the winter when the species is in spawing aggregations near Unimak Pass. This area is south and west of the primary distribution of the yellowfin sole population according to recent NMFS resource assessment survey data. Any incidental catches of yellowfin sole by JVP directed fishing for Pacific cod are expected to be minimal. Hence, the Regional Director finds that the risk of overfishing yellowfin sole from incidental catches in JVP directed fishing for Pacific cod is acceptably low. However, if fishery data during the remaining fishing year indicate that this source of fishing mortality of yellowfin sole is greater than expected, then further restriction of JVP directed fishing for Pacific cod will be considered.

Risk of Socioeconomic Harm

Short-term socioeconomic harm to users of the BSAI area yellowfin sole and "other flatfishes" resources may be expected by this action. Specifically, the JVP fisheries will change their fishing behavior. However, this action does not deny these fisheries the opportunity to harvest remaining amounts of all the species apportioned to them. Hence, total gross revenues to these fisheries should not be significantly reduced by this action. Any costs to JVP fisheries caused by this action will be mitigated by the long-term conservation benefits of protecting yellowfin sole from overfishing in the absence of this action.

Other alternatives included one suggested by a JVP fishing company interested in exploratory fishing for "other flatfishes." This alternative involved allowing JVP directed fishing for "other flatfish" only west of 172 degrees west longitude. Another

alternative would be a total closure of the entire groundfish fishery in the area of primary yellowfin sole distribution. Both alternatives would be more restrictive and potentially more economically harmful than this action. Hence, the short-term costs of this action are probably minimal and are outweighed by the long-term conservation benefits. On this basis, the Regional Director finds that the risk of socioeconomic harm is acceptably low.

Classification

This action is required under 50 CFR 675.20(a) (7)–(10) and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fisheries.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 30, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87–15258 Filed 6–30–87; 4:53 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 128
Monday, July 6, 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 29

Grade Standards for Flue-Cured Tobacco

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: The Agricultural Marketing Service proposes to amend the Official Standard Grades for flue-cured tobacco to more accurately describe tobacco as it presently appears at the marketplace. This proposal would: (1) Revise the definition of nested tobacco to specifically include a lot arranged so that tobacco in the lower portion of the lot is distinctly inferior to the tobacco in the top portion, and (2) delete the wrapper group, which contains the grades A1L—Choice Quality Lemon Wrappers and A1FE—Choice Quality Orange Wrappers which have been determined to be no longer necessary.

DATE: Comments are due on or before July 21, 1987.

ADDRESS: Send comments to the Director, Tobacco Division, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), Room 502 Annex Building, Washington DC 20250. Comments will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250, telephone: (202) 447-2567.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department proposes to amend the regulations governing the Official Standard Grades for Flue-Cured Tobacco, U.S. Types 11-14 and Foreign Type 92, pursuant to the authority contained in the Tobacco Inspection Act of 1935, as amended (49 Stat. 731; 7 U.S.C. 511 *et seq.*).

The current standards for flue-cured tobacco define "nested" as any lot of tobacco that has been loaded, packed, or arranged to conceal tobacco of inferior grade, quality, or condition which cannot be readily detected upon inspection. Various segments of the tobacco industry have suggested that the current definition should be revised to make it clear that lots of tobacco that have been layered with distinctly different grades, qualities, or conditions will be regarded as nested if the arrangement in effect conceals inferior tobacco. For the purpose of clarity, this proposal would revise the definition of nested to include specifically any lot of tobacco consisting of distinctly different grades, qualities or conditions which is arranged so that the layers in the bottom portion are distinctly inferior in grade to the tobacco in the top portion.

Marketing experience in flue-cured tobacco has revealed that producers are no longer sorting wrapper tobacco out of choice lots of Cutters and Leaf grades. The time and cost associated with sorting lots of wrapper tobacco apparently do not justify the return. This proposal would delete the wrapper group which contains the grades A1L—Choice Quality Lemon Wrappers and A1F—Choice Quality Orange Wrappers because tobacco characteristic of these grades has not appeared in the marketplace during the past 5 marketing seasons. These changes would be accomplished by removing § 29.1161 "Wrappers (A Group)", which describes the group and the grades within it; by removing the reference to wrappers in § 29.1026, the definition of group; by removing the references to wrappers in § 29.1181, the summary of standard grades; and by removing the reference to wrappers in § 29.1225, the key to standard grademarks.

These proposed rules have been reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation 1512-1 and have been determined to be "nonmajor" because they do not meet any of the criteria established for major rules under the Executive Order. Initial review of the regulations contained in 7 CFR Part 29 for need, currentness, clarity and effectiveness has been completed.

Additionally, in conformance with the provisions of Pub. L. 96-354, the Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business of this proposed rule. The proposed changes are minor and technical in nature and would not have any adverse effects. A number of firms which are affected by these proposed regulations do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. The Administrator, Agricultural Marketing Service, has determined that these actions will have no significant economic impact upon any entity, small or large, and will not substantially affect the normal movement of the commodity in the marketplace.

It has determined that there is good cause to provide interested persons fewer than 30 days to comment on this proposal. A shorter comment period is necessary to provide sufficient lead time to train inspection personnel on any revisions in the grade standards and to allow the Commodity Credit Corporation to establish and announce the flue-cured price supports by grade prior to the opening of the 1987 marketing season. Therefore, a 15-day comment period will be provided on this proposal.

All persons who desire to submit written data, views or arguments for consideration in connection with this proposal may file them with the Director, Tobacco Division, Agricultural Marketing Service, Room 502 Annex Building, U.S. Department of Agriculture, Washington, DC 20250 not later than July 21, 1987.

Lists of Subjects in 7 CFR Part 29

Administrative practice and procedure, Tobacco

It is proposed that the regulations at 7 CFR Part 29, Subpart C, be amended as follows:

PART 29—TOBACCO INSPECTION

1. The authority citation for §§ 29.1001 to 29.1225 continues to read as follows:

Authority: Sections 29.1001 to 29.1225 are issued under sec. 14, 49 Stat. 734, as amended (7 U.S.C. 511m); sec. 213, 97 Stat. 1149 (7 U.S.C. 511r).

2. Section 29.1026 is revised to read as follows:

§ 29.1026 Group.

A division of a type covering closely related grades based on certain characteristics which are related to stalk position, body, or the general quality of the tobacco. Groups in Flue-cured, U.S. Types 11–14, and Foreign Type 92 are: Leaf (B), Smoking Leaf (H), Cutters (C), Lugs (X), Primings (P), Mixed (M), Nondescript (N), and Scrap (S).

3. Section 29.1037 is revised to read as follows:

§ 29.1037 Nested.

Any lot of Types 11–14 tobacco which has been loaded, packed or arranged to conceal tobacco of inferior grade, quality or condition. Nested includes:

(a) Any lot of tobacco which contains injured or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged;

(b) Any lot of tobacco which consists of distinctly different grades, qualities or conditions and which is stacked or arranged with the same kinds together so that the tobacco in the lower portions of the lot is distinctly inferior in grade, quality or condition from the tobacco in the top portion of the lot.

§ 29.1161 [Removed and Reserved]

4. Section 29.1161 is removed and reserved.

§ 29.1181 [Amended]

5. In § 29.1181, the heading and text of the chart headed "2 Grades of Wrappers" are removed.

§ 29.1225 [Amended]

6. In § 29.1225, under the heading "Groups", the text "A-Wrappers" is removed.

Dated June 30, 1987.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 87–15266 Filed 7–2–87; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87–NM–69–AD]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which would require modification of the hydraulic system for the power transfer unit by the addition of two check valves and associated tubing. This proposal is prompted by reports of the power transfer unit shutting down during automatic operation due to low fluid level. This condition, if not corrected, could lead to the inability to extend the landing gear.

DATE: Comments must be received no later than August 21, 1987.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–69–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington..

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. McCracken, System and Equipment Branch, ANM–130S; telephone (206) 431–1947. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the Proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–69–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

Two operators have reported five incidents of the power transfer unit (PTU) actuating after loss of one hydraulic system, and then shutting down when the flaps or main landing gear extension were selected. Investigation has revealed that the hydraulic flow supply characteristics within the left reservoir, when depressurized and at a low fluid level, are such that fluid gets trapped above the anti-foam screen, preventing it from reaching the PTU, and resulting in PTU shutdown. If the low fluid level occurs due to a leak in the left hydraulic system return line, and the PTU shuts down, neither the normal nor the alternate landing gear extension system will function, which could result in a wheels-up landing.

The FAA has reviewed and approved Boeing Service Bulletin 757–29A0035, dated June 4, 1987, which describes modification of the PTU tubing by adding two check valves which allow a direct return flow to the PTU, bypassing the reservoir during high demand/low fluid quantity conditions.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require modification of the PTU hydraulic tubing in accordance with the service bulletin previously mentioned

It is estimated that 81 airplanes of U.S. registry would be affected by this AD, that it would take approximately 19 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $61,560.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034); February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not

have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 757 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 757 series airplanes, line position 0002 through 0138, certificated in any category. Compliance required within the next six months after the effective date of this AD, unless previously accomplished.

To prevent shutdown of the power transfer unit and inability to extend the landing gear, accomplish the following:

A. Modify the hydraulic system in accordance with Boeing Service Bulletin 757–29A0035, dated June 4, 1987, or later FAA-approved revision.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on June 24, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–15132 Filed 7–2–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 87–NM–55–AD]

Airworthiness Directives; Garrett Turbine Engine Company Models TSCP 700–4B and TSCP 700–5 Auxiliary Power Units

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to Garrett Models TSCP 700–4B and TSCP 700–5 Auxiliary Power Units (APU), which would require an increase in the tie rod stretch. This proposal is prompted by a report of an APU compressor tie rod separation, following a first stage compressor disk rim separation, that resulted in an uncontained release of rotor components. This condition, if not corrected, could lead to additional uncontained APU rotor failures and the potential for compartment fires.

DATES: Comments must be received no later than August 21, 1987.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–55–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Garrett Airline Service Division, A Division of the Garrett Corporation, P.O. Box 29003, Phoenix, Arizona 85038. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy McKinnon, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514–6327.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–55–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

One operator reported an incident of an APU compressor tie rod separation on a Garrett Model TSCP 700–5 APU, as a result of a first stage compressor disk multiple segment rim separation. The tie rod separation allowed release of the low pressure compressor rotor components. The APU was operating at 100% rpm for main engine start. The failure was attributed to curvic unstacking and subsequent tie rod separation due to extreme unbalance conditions, caused by a multiple segment rim separation. This condition, if not corrected, could result in the released rotor components cutting fuel lines and starting a compartment fire.

The FAA has reviewed and approved Garrett Turbine Engine Company Alert Service Bulletin TSCP 700–49–A5666, Revision 2, dated April 10, 1987, which describes procedures to increase the rotating group (compressor and turbine) preload by increasing the tie rod stretch. This action will minimize the potential for uncontained failures in the event of disk rim separation.

Since this condition is likely to exist or develop on other APU's of this same type design, an AD is proposed which would require accomplishing the tie rod stretch in accordance with the service bulletin previously mentioned.

It is estimated that 229 units installed in airplanes of U.S. registry would be affected by this AD, that it would take approximately 3 manhours per unit to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $27,480. This cost would be reimbursed by the manufacturer.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Felxibilty Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($120). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

§ 39.13 [AMENDED]

2. By adding the following new airworthiness directive:

Garrett Turbine Engine Company: Applies to Garrett Model TSCP 700-4B Auxiliary Power Units (APU), prior to serial number P-90670; and Model TSCP 700-5 APU's, prior to serial number P-80441; as installed in McDonnell Douglas DC-10 and Airbus Industries A300 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent compressor tie rod separation in the event of disk rim separation, accomplish the following:

A. Relieve the tie rod stretch and restretch the tie rods in acccordance with the Accomplishment Instructions of Garrett Alert Service Bulletin TSCP 700-49-A5666, Revision 2, dated April 10, 1987, or later FAA-approved revisions, in accordance with the following schedule:

1. If the first stage low pressure compressor disk has accumulated more than 6,000 cycles and the N_1 speed has been allowed to run above 91%, the tie rod stretch must be accomplished in accordance with the Accomplishment Instructions, Figure 1, of the above service bulletin.

2. If the first stage low pressure compressor disk has accumulated more than 6,000 cycles, but the N_1 speed has been limited to 91% maximum, the tie rod restretch must be accomplished within 3,000 cycles after the effective date of this AD, but not to exceed the disk life limit of 12,750 cycles.

3. If the first stage low pressure compressor disk has accumulated 6,000 cycles or less and the N_1 speed has been allowed to go above 91%, the tie rod restretch must be accomplished prior to the accumulation of 8,000 cycles.

4. If the first stage low pressure compressor disk has accumulated 6,000 cycles or less, but the N_1 speed has been limited to 91% maximum, the tie rod restretch must be accomplished prior to the accumulation of 9,000 cycles total disk time.

B. Alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Garrett Airline Service Division, A Division of the Garrett Corporation, P.O. Box 29003, Phoenix, Arizona 85038. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on June 24, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-15130 Filed 7-2-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-47-AD]

Airworthiness Directives; Garrett Turbine Engine Company Model GTCP 85 Series Auxiliary Power Units

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Garrett Model GTCP 85 series Auxiliary Power Units (APU) that utilize one-piece cast turbine engine wheels. The proposed AD would require the installation of an augmentation containment ring. This proposal is prompted by reports that turbine wheels have separated, resulting in containment shroud fracture and subsequent penetration of the cocoon. This condition, if not corrected, could lead to additional uncontained turbine wheel separations and compartment fires.

DATE: Comments must be received no later than August 21, 1987.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-47-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Garrett Airline Services Division, A Division of the Garrett Corporation, P.O. Box 29003, Phoenix, Arizona 85038. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy McKinnon, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 514-6327.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-47-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The FAA has recently received several reports of turbine wheel separation. In at least two cases, the turbine shroud was broken into pieces and shroud fragments either pierced or penetrated the cocoon. In one failure, a fuel line was dented; in another failure, the landing gear door was dented.

These cases have occurred on APU's equipped with one-piece cast turbine wheels. The one-piece cast turbine wheels, part numbers 968095-X, 3604604-X and 3606982-1, have been identified as those that are susceptible to failure. This condition, if not corrected, could lead to additional uncontained turbine wheel separations and potential compartment fires.

The FAA has reviewed and approved Garrett Turbine Engine Company Service Bulletin GTCP 85-49-5689, dated April 3, 1987, which describes procedures for installing an augmentation containment ring to assist in containment of the turbine wheel in the event of a turbine wheel separation.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require installing the augmentation containment ring in accordance with the service bulletin previously mention.

It is estimated that 3,500 APU's installed in airplanes of U.S. registry would be affected by this AD, that it would take approximately one manhour per unit during a normal shop visit when repair necessitates access to the affected area, and that the average labor cost would be $40 per manhour. The cost of parts is $245 per ring. Based on these figures, the total estimated cost to U.S. operators would be $997,500.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, airplanes equipped with Garrett Model GTCP 85 APU's are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive

Garrett Turbine Engine Company: Applies to Garrett Model GTCP 85 series Auxiliary Power Units equipped with one-piece cast turbine wheels, Part Nos. 968095-X, 3604604-X and 3606982-1. Compliance required within 18 months after the effective date of this AD, unless previously accomplished.

To prevent turbine wheel separation and resulting containment shroud fragmentation, accomplish the following:

A. Install the augmentation containment ring, part number 3612249-1, in Garrett Model GTCP 85 series auxiliary power units in accordance with the accomplishment instructions of Garrett Service Bulletin GTCP 85-49-5689, dated April 3, 1987, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. An alternate means of compliance with this AD which provides an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a base to comply with the requirements of this D.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Garrett Airline Services Division, A Division of the Garrett Corporation, P.O. Box 29003, Phoenix, Arizona 85038. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Garrett Airline Services Division, A Division of the Garrett Corporation, P.O. Box 29003, Phoenix, Arizona 85038. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on June 24, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-15131 Filed 7-2-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-56-AD]

Airworthiness Directives; Boeing Model 747 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which would require testing of the leading edge pneumatic ducts, and repair or replacement, as necessary. This proposal is prompted by reports of cracked or ruptured ducts which have resulted in damage to wing panels and electrical wiring, accompanied by erratic and erroneous cockpit indications.This condition, if not corrected, could lead to damage to the wing leading edge, or improper pilot action in response to misleading cockpit indications.

DATES: Comments must be received no later than August 21, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-56-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O.Box 3707 Seattle, Washington 98124. This information may be examined at the

FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. McCracken, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1947. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-56-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

There have been numerous reports of cracking and rupturing of the leading edge pneumatic ducts on Boeing Model 747 airplanes. Failures of the ducts have resulted in damage to or loss of leading edge panels. Wiring and engine control cables adjacent to the ducts have been damaged, with wire bundles cut and cables and pulleys damaged. This damage has led to misleading cockpit indications and improper pilot action. These failures have also resulted in diversions to alternate airports and unscheduled landings. In one case, the diversion was to a distant airport to avoid icing conditions, as the wing thermal anti-ice systems do not function with the supply ducts leaking or ruptured.

The FAA has reviewed and approved Boeing Service letter 747-SL-36-30-G, dated May 5, 1987, which describes procedures for hydrostatic proof pressure testing of the wing leading edge duct, and repair, modification, or replacement, if necessary.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require a one-time inspection of wing leading edge ducts, and repair or replacement, as necessary, in accordance with the service letter previously mentioned.

It is estimated that 172 airplanes of U.S. registry would be affected by this AD, that it would take approximately 100 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to $688,000.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have significant economic impact on a substantial number of small entities because few, if any, Boeing Model 747 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, prior to line position 574, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of wing leading edge ducts, accomplish the following:

A. Within the next 6,000 hours time-in-service after the effective date of this AD, perform a one-time wing leading edge duct hydrostatic proof pressure test in accordance with Boeing Service Letter 747-SL-36-30-G, dated May 5, 1987, or later FAA-approved revision, and replace or repair, in accordance with the Boeing Overhaul Manual, any duct which fails during the test.

B. Prior to installation on an airplane, verify that any leading edge duct is tested in accordance with Boeing Service Letter 747-SL-36-30-G, dated May 5, 1987, or production equivalent.

C. An alternate means of compliance or adjustment of the compliance time, which provide an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for accomplishment of the rework required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-15134 Filed 7-2-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-AGL-11]

Proposed Alteration to Control Zone, Muncie, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Muncie, IN, control zone by removing Reese Airport, Muncie, IN, from the control zone area and accommodating existing instrument approach procedures to the airport.

The intended effect of this action is to eliminate the southeast extension of the control zone to permit traffic pattern operations at Reese Airport to be conducted clear of the control zone area.

DATES: Comments must be received on or before August 5, 1987.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 87-AGL-11, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

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

SUPPLEMENTARY INFORMATION: As currently described the present Muncie control zone encompasses Reese Airport. By adding a step down fix to the VOR RWY 32 Standard Instrument Approach Procedure (SIAP) at Delaware County-Johnson Field Airport we can eliminate the southeast extension to the control zone which eliminates Reese Airport from the area. This control zone modification will permit traffic pattern operations at Reese Airport to be conducted outside the control zone. This, in turn, would eliminate requirements for Muncie Air Traffic Control Tower to approve traffic pattern operations when the control zone is IFR with visibility between one (1) and three (3) miles, and would allow operations based on weather requirements of uncontrolled airspace below 700 feet above ground level.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-AGL-11." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center APA-430, 800 Independece Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify the designated control zone near Muncie, IN.

Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, control zones.

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.171 [Ameneded]

2. Section 71.171 is amended as follows:

Muncie, IN [Amended]

Within a 5-mile radius of Delaware County-Johnson Field (lat. 40°14'31"N, long. 85°23'47"W); within 3 miles each side of the Muncie VOR/DME 014 radial, extending from the 5-mile radius zone to 8.5 miles north of the VOR/DME; and within 3 miles each side of the Muncie VOR/DME 321 radial, extending from the 5-mile radius zone to 8.5 miles northwest of the VOR/DME. This control zone is effective during the specific dates and times established in advance by a Notice of Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Des Plaines, Illinois, on June 22, 1987.

Teddy W. Burchman,

Manager, Air Traffic Division.

[FR Doc. 87-15139 Filed 7-2-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 87-AWA-4]

Proposed Alteration of Jet Routes; Expanded East Coast Plan, Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of seven jet routes located in the vicinity of New York. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by New England, Great Lakes

and the Southern Regions. This proposal is Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action would reduce en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA; areas, save fuel and reduce controller workload. The EECP is being implemented in coordinated segments until completed.

DATE: Comments must be received on or before August 3, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Eastern Region, Attention: Manager, Air Traffic Division, Docket No. 87–AWA–4, Federal Aviation Administration, JFK International Airport, The Fitzgerald Federal Building, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed about. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–AWA–4." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the descriptions of Jet Routes J–68, J–75, J–79, J–94, J–95, J–106 and J–109 located in the vicinity of New York. Currently, east coast traffic flows are saturated and compressed in the New York metropolitan area to the point that substantial delays are experienced daily. To alleviate the congestion, which causes delays, this proposd EECP would provide optimum use of airspace along the heavily traveled coastal corridors between New York and Florida and reduce departure/arrival delays in the Boston, MA; Chicago, IL; Atlanta, GA; and New York areas. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 75

Aviation safety, jet routes.

The Proposed Amendment

PART 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

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

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

§ 775.100 [Amended]

2. Section 75.100 is amended as follows:

J–68 [Amended]

By removing the words "; Dunkirk; Hancock, NY;" and substituting the words ". From Hancock, NY;"

J–75 [Amended]

By removing the words "Westminster, MD; Modena, PA;" and substituting the words "INT Gordonsville 040°T(046°M) and Modena, PA, 231°T(240°M) radials: Modena;" and by removing the words "INT Carmel 044°" and substituting the words "INT Carmel 045°T(057°M)"

J–79 [Amended]

By removing the words "Sea Isle, NJ; Kennedy, NY; INT Kennedy 080° and Nantucket, MA, 255° radials; INT Nantucket 255° and Hyannis, MA, 205° radials; Hyannis;" and substituting the words "INT Salisbury 018°T(026°M) and Kennedy, NY, 218°T(230°M) radials; Kennedy; INT Kennedy 080°T(092°M) and Nantucket, MA, 254°T(269°M) radials; INT Nantucket 254°T)269°M) and Hyannis, MA, 205°T(220°M) radials; Hyannis;"

J–94 [Amended]

By removing the words "Albany, NY, to Boston, MA." and substituting the words "INT Buffalo 091°T(099°M) and Hancock, NY, 302°T(313°M) radials; INT Hancock 302°T(313°M) and Delancey, NY, 292°T(303°M) radials; to Delancey."

J–95 [Amended]

By removing the words "From Kennedy, NY, via Huguenot, NY," and substituting the words "From Deer Park, NY; INT Deer Park 308°T(320°M) and Binghamton, NY, 119°T(129°M) radials; Binghamton;"

J-106 [Amended]

By removing the words "Sparta, NJ; to Kennedy, NY," and substituting the words "Wilkes-Barre, PA; Stillwater, NJ; to LaGuardia, NY,"

J-109 [Revised]

From Wilmington, NC; Flat Rock, VA; Linden, VA; to Buffalo, NY.

Issued in Washington, DC, on June 25, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-15135 Filed 7-2-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 87-AWA-3]

Proposed Alteration of Jet Routes; Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of nine jet routes located in the vicinity of New York. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by New England, Great Lakes and the Southern Regions. This proposal is Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action would reduce en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA; areas, save fuel and reduce controller workload. The EECP is being implemented in coordinated segments until completed.

DATES: Comments must be received on or before August 3, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Eastern Region, Attention: Manager, Air Traffic Division, Docket No. 87-AWA-3, Federal Aviation Administration, JFK International Airport, The Fitzgerald Federal Building, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-AWA-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the descriptions of Jet Routes J-37, J-40, J-42, J-48, J-51, J-55, J-60, J-62 and J-64 located in the vicinity of New York. Currently, east coast traffic flows are saturated and compressed in the New York metropolitan area to the point that substantial delays are experienced daily. To alleviate the congestion, which causes delays, this proposed EECP would provide optimum use of airspace along the heavily traveled coastal corridors between New York and Florida and reduce departure/arrival delays in the Boston, MA; Chicago, IL; Atlanta, GA; and New York areas.

Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

PART 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

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

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

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-37 [Amended]

By removing the words "Kenton, DE; Coyle, NJ; Kennedy, NY;" and substituting the words "Brooke, VA; INT Brooke 067°T(076°M) and Coyle, NJ. 226°T(236°M) radials; to Coyle. From Kennedy, NY; Kingston, NY;"

J–40 [Amended]

By removing the words "Richmond, VA; INT Richmond 009° and Gordonsville, VA, 059° radials; INT Gordonsville 059° and DUPONT, DE, 223° radials; to Dupont." and substituting the words "to Richmond, VA."

J–42 [Amended]

By removing the words "Casanova, VA; INT Casanova 051° and Westminster, MD, 080° radials; INT Westminster 080° and Robbinsville, NJ, 239° radials; Robbinsville; INT Robbinsville 073° and Hampton 223° radials; to Hampton." and substituting the words "Montebello, VA; Gordonsville, VA; Nottingham, MD; INT Nottingham 061°T(071°M) and Woodstown, NJ, 225°T(235°M) radials; Woodstown; Robbinsville, NJ; LaGuardia, NY; INT LaGuardia 043°T(055°M) and Hartford, CT, 236°T(249°M) radials; Hartford; to INT Hartford 075°T(088°M) and Providence, RI, 315°T(329°M) radials."

J–48 [Amended]

By removing the words "Carmel, NY, 044° radials;" and substituting the words "Carmel, NY, 045°T(057°M) radials;" and by removing the words ", to Pulaski, VA." and substituting the words "; Montebello, VA; to Toccoa, GA."

J–51 [Amended]

By removing the words "to Flat Rock." and substituting the words "Flat Rock; Nottingham, MD; Dupont, DE; to Yardley, NJ."

J–55 [Amended]

By removing the words "Raleigh-Durham, Flat Rock, VA; INT of the Flat Rock 025° and the Gordonsville, VA, 059° radials; INT of the Gordonsville 059° and Sea Isle, NJ, 253° radials; Sea Isle; INT Sea Isle 050° and Hampton, NY, 223° radials; Hampton;" and substituting the words "Raleigh-Durham; INT Raleigh-Durham 035°T(039°M) and Hopewell, VA. 231°T(237°M) radials; Hopewell; to INT Hopewell 030°T(036°M) and Nottingham, MD. 174°T(184°M) radials. From Sea Isle, NJ;"

J–60 [Amended]

By removing the words "INT Philipsburg 100° and Robbinsville, NJ, 293° radials;" and substituting the words "East Texas, PA;"

J–62 [Amended]

By removing the words "From Kennedy, NY, via the INT of Kennedy 080° and the Nantucket, MA, 255° radials; Nantucket;" and substituting the words "From Robbinsville, NJ; Nantucket, MA;"

J–64 [Amended]

By removing the words "to Robbinsville, NJ." and substituting the words "Ravine, PA; to Robbinsville, NJ."

Issued in Washington, DC on June 24, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–15136 Filed 7–2–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 75

[Airspace Docket No. 87–AWA–2]

Proposed Alteration of Jet Routes; Expanded East Coast Plan, Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of eight jet routes located in the vicinity of New York. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by New England, Great Lakes and the Southern Regions. This proposal is Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action would reduce en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, save fuel and reduce controller workload. The EECP is being implemented in coordinated segments until completed.

DATES: Comments must be received on or before August 3, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Eastern Region, Attention: Manager, Air Traffic Division, Docket No. 87–AWA–2, Federal Aviation Administration, JFK International Airport, The Fitzgerald Federal Building, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–AWA–2." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the descriptions of Jet Routes J–6, J–8, J–14, J–22, J–24, J–30, J–34 and J–36 located in the vicinity of New York. Currently, east coast traffic flows are saturated and compressed in the New York metropolitan area to the point that substantial delays are experienced daily. To alleviate the congestion, which causes delays, this proposed EECP would provide optimum use of airspace along the heavily traveled coastal corridors between New York and Florida and reduce departure/arrival delays in the Boston, MA; Chicago, IL; Atlanta, GA; and New York areas.

Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Proposed Amendment

PART 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

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

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

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J–6 [Amended]

By removing the words "Shawnee, VA; Westminster, MD; INT of Westminster 080° and Robbinsville, NJ, 239° radials; to Robbinsville," and substituting the words "INT Charleston 076°T(079°M) and Martinsburg, WV, 243°T(250°M) radials; Martinsburg; to Lancaster, PA."

J–8 [Amended]

By removing the words "Casanova, VA; INT Casanova 051° and Westminster, MD, 080° radials; INT Westminster 080° and Robbinsville, NJ, 239° radials; to Robbinsville." and substituting the words "INT Charleston 085°T(088°M) and Casanova, VA, 262°T(268°M) radials; to Casanova."

J–14 [Amended]

By removing the words "to Kenton, DE." and substituting the words "INT Richmond 039°T(048°M) and Patuxent, MD, 228°T(238°M) radials; to Patuxent."

J–22 [Amended]

By removing the words "to Gordonsville, VA." and substituting the words "to Montebello, VA."

J–24 [Amended]

By removing the words ", INT Charleston 101° and Richmond, VA, 286° radials; to Richmond." and substituting the words "; Montebello, VA; Flat Rock, VA; to Hopewell, VA."

J–30 [Amended]

By removing the words "to Shawnee, VA." and substituting the words "INT Appleton 111°T(113°M) and Kessel, WV, 276°T(282°M) radials; Kessel; to INT Kessel 097°T(103°M) and Armel, VA, 292°T(300°M) radials."

J–34 [Amended]

By removing the words "to Martinsburg, WV." and substituting the words "INT Bellaire 133°T(137°M) and Kessel, WV, 276°T(282°M) radials; Kessel; to INT Kessel 097°T(103°M) and Armel, VA, 292°T(300°M) radials."

J–36 [Amended]

By removing the words "to Huguenot, NY," and substituting the words "Lake Henry, PA; to Sparta, NJ,

Isssued in Washington, DC, on June 23, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–15137 Filed 7–2–87; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–24667; File No. S7–22–87]

Voting Rights Listing Standards; Proposed Disenfranchisement Rule

AGENCY: Securities and Exchange Commission.

ACTION: Extension of time for comment and request to appear at public hearing.

SUMMARY: The Securities and Exchange Commission ("Commission") announced today that it has extended until July 10, 1987, the date by which people interested in appearing at the Commission's public hearing on a proposed rule concerning voting rights listing standards, scheduled for July 22, 1987, should contact Jonathan G. Katz, Secretary of the Commission, and extended until August 5, 1987, the date by which comments on the proposal, set forth in Securities Exchange Act Release No. 24623 (June 22, 1987), 52 FR 23665, must be submitted. The Commission has received a request that the time period for designation of witnesses and for comment be extended and believes that an extension of time until July 10 and August 5, 1987, respectively, will be beneficial because it will result in the receipt of additional useful comments based on both the Release and testimony presented at the hearings, and will permit people greater opportunity to submit their requests to appear.

DATES: Requests to appear at the hearing must be received on or before July 10, 1987. People scheduled to appear must submit the original and ten copies of their written testimony by July 15, 1987 at the address noted below. All other written comments must be received on or before August 5, 1987.

ADDRESS: Requests to appear and comments should refer to File No. S7–22–87 and be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. All comments will be available for public inspection and copying in the Commission's Public Reference Room, at the above address.

FOR FURTHER INFORMATION CONTACT: Ellen K. Dry, Attorney, Division of Market Regulation, Securities and Exchange Commission, Room 5032, Stop 5–1, 450 Fifth Street NW., Washington, DC 20549, at 202/272–2843.

SUPPLEMENTARY INFORMATION: In Securities Exchange Act Release No. 24623 ("Release") the Commission published for comment Rule 19c–4 which would add to the rules of national securities exchanges ("exchanges") and national securities associations ("associations") a prohibition on an exchange listing, or an association authorizing for quotation and/or transaction reporting on an automated inter-dealer quotation system, the common stock or equity securities of an issuer if, on or after May 15, 1987, the issuer issues securities or takes other corporate action that would have the effect of nullifying, restricting, or disparately reducing the voting rights of any common stock of existing shareholders.

The Commission has received a request that the time periods for designation of witnesses for the public hearings and receipt of comments be extended.[1] In view of this request and in order to provide an opportunity for commentators to address issues raised both in the Release and at the public hearings, and to permit people an additional opportunity to submit their

[1] Letter from Robert D. Rosenbaum, Arnold & Porter, Counsel to the Business Roundtable, to Jonathan G. Katz, Secretary, SEC, dated June 26, 1987.

requests to appear at the hearings, the Commission has extended the date to request to appear until July 10, 1987, and the comment period on the Release until August 5, 1987.[2]

By the Commission.

Dated: July 1, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-15341 Filed 7-1-87; 3:29 pm]

BILLING CODE 6010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4 and 12

[Docket No. RM87-19-000]

Electric Utilities; Classification of Dams; Correction

June 30, 1987.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Proposed rule; correction.

SUMMARY: On June 17, 1987, the Federal Energy Regulatory Commission issued a notice of proposed rulemaking (NOPR), 52 FR 23557 (June 23, 1987) proposing to amend its rules governing the safety of water power projects and project works. This notice is to correct an item in the preamble of that NOPR.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Roger E. Smith, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION:

Discussion

The Federal Energy Regulatory Commission (Commission) issued a notice of proposed rulemaking in Docket No. RM87-19-000 on June 17, 1987, 52 FR 23557 (June 23, 1987). The Commission proposes to amend its rules governing the safety of water power projects and project works. That notice incorrectly provided an effective date for the proposed rule instead of a date by which written comments must be filed with the Commission. Therefore, the published effective date, appearing on page 23557 in the June 23, 1987 issue of the **Federal Register**, is deleted and the following information is substituted:

Date: Written comments on this proposed rule must be filed with the Commission by August 24, 1987.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15253 Filed 7-2-87; 8:45 am]

BILLING CODE 6717-01-M

[2] People scheduled to appear at the hearings still will be required to submit copies of their written testimony to the Commission by July 15, 1987, as noted in the original Release. Of course, these persons will be permitted to submit any additional written comments by August 5, 1987.

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Parts 353, 354 and 355

[Docket No. 70503-7103]

Procedures for Imposing Sanctions for Violations of an Antidumping or Countervailing Duty Protective Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of proposed rulemaking and request for public comments.

SUMMARY: The International Trade Administration proposes to establish procedures for imposing sanctions against an individual, firm, or other entity for breaching an administrative protective order issued by the International Trade Administration (ITA) as a condition of the release of proprietary business information during an antidumping or countervailing duty proceeding.

DATE: Written comments will be considered if received not later than September 4, 1987.

ADDRESS: Send comments (10 copies) to: William D. Hunter, Acting Deputy Chief Counsel for Import Administration, Room B-099, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. Each person submitting a comment should include his or her name and address, and give reasons for any recommendation.

FOR FURTHER INFORMATION CONTACT: William D. Hunter, Acting Deputy Chief Counsel for Import Administration, (202) 377-1411.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Commerce is authorized to release proprietary business information under an administrative protective order in the course of an antidumping or countervailing duty investigation or administrative review. 19 U.S.C. 1677f. The Secretary is further authorized to impose sanctions for the breach of a protective order. 19 U.S.C. 1677f(c). Current antidumping and countervailing duty regulations provide that a person against whom sanctions are proposed "shall be afforded a reasonable opportunity to be heard before the determination is made." 19 CFR 353.30(e)(2) and 355.20(e)(2).

The Department considers breach of a protective order to be extremely serious and to warrant the agency's closest attention.

The ability to protect sensitive business information is vital to the success of the Department's administration of the antidumping and countervailing duties laws. This proposal recognizes the serious nature of the subject, including the need to protect fully the rights of accused parties.

The proposed regulations set forth specific procedures for investigating an allegation of a breach; providing notice to and obtaining information from the party against whom sanctions are proposed; conducting a hearing, if requested; making an initial decision; and making a final decision.

Major Provisions

The proposed regulations include the following major provisions:

1. *Sanctions.* Section 354.3 provides that sanctions which can be imposed include barring a person from representing another before the Department of Commerce for up to seven years, denying the person access to proprietary information for up to seven years, and other administrative sanctions, such as striking argument from the record or terminating an investigation or administrative review then in progress. Sanctions can be taken against persons who violated a protective order and against other persons, specifically, the firm, partner, associate, employee, employer, or client of a person who violated a protective order.

2. *Investigation.* Section 354.5 authorizes a Division Director in the Office of Investigations or the Office of Compliance, International Trade Administration, to investigate an alleged breach of a protective order and to report the facts to the Assistant Secretary for Trade Administration. Persons who make day-to-day decisions under the antidumping and countervailing duty laws — the Deputy Assistant Secretary for Import Administration and the Office Directors for Investigations and Compliance — would not be involved.

3. *Initiating proceedings.* Section 354.6 provides that the Assistant Secretary may initiate proceedings if, after reviewing the report of investigation, the Assistant Secretary determines that there is reasonable cause to believe a person has violated a protective order and that sanctions are appropriate for such a violation. Proceedings are initiated when the Assistant Secretary issues a charging letter which proposes sanctions.

4. *Charging letter.* Section 354.7 provides that a person against whom sanctions are proposed will be notified in a charging letter of allegations, proposed sanctions, and procedures for challenging imposition of sanctions. The parties may settle a case by mutual agreement after issuance of a charging letter.

Consistent with state bar disciplinary proceedings, the person whose information is alleged to have been released is not a party to the proceedings. The interest being vindicated is that of the Department in ensuring that its rules against unauthorized disclosure are being followed.

5. *Interim sanctions.* Section 354.8 provides that interim sanctions may be imposed by a presiding official if necessary to preserve the interests of the Department or others. Notice and an opportunity to respond must be provided to a party against whom interim sanctions are porposed, except for emergency interim sanctions. Emergency interim sanctions to preserve the status quo may be imposed for a 48 hour period. Emergency interim sanctions are similar to a temporary restraining order, and would require proof of irreparable harm.

6. *Request for a hearing.* Section 354.9 provides that a party may request a hearing. The Department can request a hearing only if a hearing is in the interest of justice; thus the Department may not request a hearing simply to change the identity of the person making the initial decision under section 354.14.

7. *Discovery.* Section 354.10 sets forth procedures for discovery. Voluntary discovery is encouraged. A presiding official may order discovery but must consider the necessity to protect proprietary information and cannot order the release of information if improper dissemination is likely to result.

8. *Prehearing conference.* Section 354.11 directs the examiner to order the parties to meet or confer prior to an administrative hearing to discuss simplification of issues, stipulations, and settlements.

9. *Hearing.* Section 354.12 sets forth rules concerning hearings where witnesses present testimony. They are to be held in Washington, D.C., unless extraordinary circumstances are present. The presiding official has all authority necessary to conduct the hearing, including the authority to exclude persons or seal the record to protect proprietary information. The presiding official may join two or more cases involving more than one charged or affected party or may consolidate two or more cases involving alleged violations of more than one protective order. If testimony by a witness and the submission of real evidence is not necessary in a particular case, the presence of the parties or their representatives is not necessary and submissions may be through mailing or otherwise as the presiding official permits. The presiding official has authority to establish procedures to protect proprietary information from improper dissemination.

10. *Proceeding without a hearing.* Section 354.13 sets forth rules for the Assistant Secretary to collect information from charged or affected parties if no party has requested a hearing.

11. *Initial decision.* Section 354.14 provides that the presiding official, if a hearing was requested, or the Assistant Secretary will issue an initial decision based solely on evidence received into the record. The initial decision must state findings of fact and the sanctions to be imposed, if any, which may be lesser included sanctions of those proposed but may not be more severe than those proposed. The burden of proof rests with the Department, which must prove a violation by a preponderance of the evidence. If the APO Sanctions Board (see below) has not issued a final decision within 60 days after the initial decision is issued, the latter becomes the final decision.

12. *Final decision.* Section 354.15 provides that the APO Sanctions Board, consisting of the Under Secretary for International Trade, the Under Secretary for Economic Affairs, and the General Counsel, or their designees, will review the initial decision. Parties have 30 days to submit comments on the initial decision to the Board. After that time period has expired, the Board may issue a final decision which: (1) Adopts the initial decision in whole or in part, (2) differs from the initial decision, or (3) remands the matter back to the presiding official or Assistant Secretary. The final decision must state findings and sanctions if it differs from the initial decision. If there is a finding of a violation of a protective order and that sanctions are to be imposed, that finding must be published in the **Federal Registered.**

13. *Reconsideration.* Section 354.16 provides that the parties may ask the APO Sanctions Board to reconsider a final decision, but a party must file a motion for reconsideration with the Board within 30 days, or at a later date if material evidence is discovered which was not previously known.

14. *Confidentiality.* Section 354.17 provides that proceedings under this Part shall not be public until the Department issues a final decision imposing sanctions. If the final decision is not to impose a sanction, proceedings would remain confidential. The public or nonpublic nature of proceedings which are settled would be dealt with in the settlement itself. These provisions are consistent with the approach taken by state bar associations in the conduct of attorney disciplinary proceedings.

Section 354.17 also provides that the charged party, but not an affected party (that is, someone who may be impacted by the proposed sanction, such as a client of a charged law firm), or the charged party's counsel may have access to proprietary information involved in the proceeding under protective order. Normally, such access will be required if the party is to have a reasonable opportunity to mount a defense.

Actions Associated With Proposed Rulemaking

The Department has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, no environmental impact assessment or environmental impact statement was prepared.

Under Executive Order 12291, the Department must judge whether a regulation is "Major" and, therefore, subject to the requirements of a Regulatory Impact Analysis. These regulations are not Major because they are not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. These regulations were submitted to the Office of Management and Budget for review as required by Executive Order 12291.

The General Counsel of the Department of Commerce certified to the Small Business Administration that these regulations, if adopted, will not have a significant economic impact on a substantial number of small entities, because these regulations merely provide sanctions and procedures for the enforcement of adminstrative protective orders. Therefore, a Regulatory Flexibility Analysis was not prepared.

These regulations will not impose a collection of information requirement for purposes of the Paperwork Reduction Act.

Parts 353 and 355 are amended to cross-reference Part 354. The authority citations for Title 19, Parts 353 and 355 of the Code of Federal Regulations are changed to reflect amendments to the antidumping and countervailing duty law enacted as part of the Tax Reform Act of 1986 (Pub. L. 99–514, 100 Stat. 2085; October 22, 1986). These amendments, which are proposed by the Department of Commerce, are technical in nature.

List of Subjects in 19 CFR Parts 353, 354, and 355

Business and industry, Foreign trade, Imports, Trade practices.

Dated: May 19, 1987.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

For the reasons stated, we proposed to amend 19 CFR Chapter III by amending Parts 353 and 355 as follows, and to add a Part 354 as shown below.

PART 353—[AMENDED]

1. The authority citation for Part 353 is revised to read as follows and the authority citations following the sections in Part 353 are removed.

Authority: 5 U.S.C. 301, and subtitle IV, parts II, III, and IV of the Tariff Act of 1930, as amended by Title I of the Trade Agreements Act of 1979, Pub. L. 96–39, 93 Stat. 150; section 221 and Title VI of the Trade and Tariff Act of 1984, Pub. L. 93–573, 98 Stat. 2948; and Title XVIII, Subtitle B, Chapter 3 of the Tax Reform Act of 1986, Pub. L. 99–514, 100 Stat. 2919 (October 23, 1986).

2. 19 CFR 353.30(e)(2) is revised to read as follows:

§ 353.30 [Amended]

* * * * *

(e) * * *

(2) The imposition of such sanctions shall be in accordance with the procedures set forth in 19 CFR Part 354.

3. 19 CFR Part 354 is added as follows:

PART 354—PROCEDURES FOR IMPOSING SANCTIONS FOR VIOLATION OF AN ANTIDUMPING OR COUNTERVAILING DUTY PROTECTIVE ORDER

Sec.

Authority: 5 U.S.C. 301, and section 777 of the Tariff Act of 1930, as amended by section 619 of The Trade and Tariff Act of 1984, Pub. L. 93–573, 98 Stat. 2948, 3038, and section 1886(a)(13) of the Tax Reform Act of 1986, Pub. L. 99–514, 100 Stat. 2922 (October 22, 1986).

§ 354.1 Scope

This part sets forth the procedures for imposing sanctions for violations of an administrative protective order issued under 19 CFR 353.30 or 355.20 as authorized by 19 U.S.C. 1677f(c).

§354.2 Definitions.

For purposes of this part:

(a) "Affected party" means a party against whom sanctions have been proposed but who is not a charged party;

(b) "APO Sanctions Board" means the Administrative Protective Order Sanctions Board;

(c) "Assistant Secretary" means Assistant Secretary for Trade Administration, or designee;

(d) "Charged party" means a person who is charged by the Assistant Secretary with violating a protective order;

(e) "Chief Counsel" means Chief Counsel for International Trade, or designee;

(f) "Date of service" means the day a document is deposited in the mail or delivered in person;

(g) "Days" means calendar days, except that a deadline which falls on a weekend or holiday shall be extended to the next working day;

(h) "Department" means Department of Commerce;

(i) "Director" means a Division Director in the Office of Investigations, International Trade Administration, or designee, who shall be responsible for conducting an investigation of an alleged violation of an administrative protective order if the incident is discovered during an administrative review, or a Division Director in the Office of Compliance, International Trade Administration, or designee, if the incident is discovered during any other time;

(j) "Lesser included sanction" means a sanction of the same type but of more limited scope than the proposed sanction; thus a bar on representing a person's interests within a particular operating unit is a lesser included sanction of a proposed bar on representations before the Department and a one-year bar is a lesser included sanction of a proposed seven-year bar;

(k) "Parties" means the Department and the charged party or affected party in an action under this Part;

(l) "Person" means an individual, partnership, corporation, association, organization, or other entity;

(m) "Presiding official" means the person authorized to conduct hearings in administrative proceedings or to rule on any motion or make any determination under this Part, who may be an Administrative Law Judge, a Hearing Commissioner, or such other person who is not under the supervision or control of the Deputy Assistant Secretary for Import Administration, the Assistant Secretary for Trade Administration, the Chief Counsel for International Trade, or a member of the APO Sanctions Board;

(n) "Proprietary information" means information the disclosure of which the Secretary has decided is limited under 19 CFR 353.29 or 355.19, including business or trade secrets; production costs; distribution costs; terms of sale; prices of individual sales, likely sales, or offers; names of customers, distributors, or suppliers; exact amounts of the gross net subsidies received and used by a person; names of particular persons from whom proprietary information was obtained; and any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter;

(o) "Protective order" means an administrative protective order issued by the Secretary under 19 CFR 353.30 or 355.20; and

(p) "Under Secretary" means Under Secretary for International Trade, or designee.

§ 354.3 Sanctions.

(a) A person determined under this part to have violated a protective order may be subjected to any or all of the following sanctions:

(1) Barring such person from appearing before the Department or any constituent agency or other sub-unit of the Department to represent another for a period of up to seven years from the date of publication in the **Federal Register** of a notice that a violation has been determined to exist;

(2) Denying the person access to proprietary information for a period of up to seven years from the date of publication in the **Federal Register** of a notice that a violation has been determined to exist;

(3) Other appropriate administrative sanctions, including striking from the record any information or argument submitted by, or on behalf of, the violating party or the party represented by the violating party; terminating any proceeding then in progress; or revoking any order then in effect, and

(4) Requiring the person to return material previously provided by the Department and all other materials containing the propriety information, such as briefs, notes, or charts based on any such information received under an administrative protective order.

(b)(1) The firm of which a person determined to have violated a protective order is a partner, associate or employee; any partner, associate, employer, or employee of such person; and any person represented by such person may be barred from appearing before the Department for a period of up to seven years from the date of publication in the **Federal Register** of a notice that the existence of a violation has been determined to exist or may be subjected to the sanctions set forth in paragraph (a) of this section, as appropriate.

(2) Each person against whom sanctions are proposed under paragraph (b)(1) of this section is entitled to all the administrative rights set forth in this part separately and apart from rights provided to a person subject to sanctions under paragraph (a) of this section, including the right to a charging letter, right to representation, and right to a hearing, but subject to joinder or consolidation by a presiding official under § 354.12(b).

§ 354.4 Suspension of rules.

Upon request by the Assistant Secretary, a charged or affected party, or the APO Sanctions Board, a presiding official may modify or waive any rule in this part upon determining that no party will be unduly prejudiced and the ends of justice will thereby be served and upon notice to all parties.

§ 354.5 Report of violation and investigation.

(a) An employee of the Department of Commerce who has information indicating that the terms of an administrative protective order have been violated will provide the information to the appropriate Director.

(b) Upon receiving information which indicates that a person may have violated the terms of an administrative protective order, from an employee of the Department of Commerce or any other person, the appropriate Director will conduct an investigation concerning whether there was a violation of a protective order, and who was responsible for the violation, if any. For purposes of this Part, the Director will be supervised by the Assistant Secretary for Trade Administration with guidance from the Chief Counsel.

(c) The appropriate Director will provide a report of the investigation to the Assistant Secretary, after a review by the Chief Counsel.

§ 354.6 Initiation of proceedings.

If the Assistant Secretary concludes, after an investigation and report by the appropriate Director under § 354.5(c) and consultation with the Chief Counsel, that there is reasonable cause to believe a person has violated a protective order and that sanctions are appropriate for such a violation, the Assistant Secretary will initiate a proceeding under this part by issuing a charging letter as set forth in § 354.7.

§ 354.7 Charging letter.

(a) *Contents of letter.* The Assistant Secretary will initiate proceedings by issuing a charging letter to each charged party and affected party which includes:

(1) A statement of the allegation that a protective order has been violated and the basis thereof;

(2) A statement of the proposed sanctions;

(3) A statement that the charged or affected party is entitled to review the documents or other physical evidence upon which the charge is based and the method for requesting access to, or copies of, such documents;

(4) A statement that the charged or affected party is entitled to a hearing before a presiding official if requested within 30 days of the date of service of the charging letter and the procedure for requesting a hearing, including the name, address, and telephone number of the person to contact if there are further questions;

(5) A statement that the charged or affected party has a right, if a hearing is not requested, to submit documentary evidence to the Assistant Secretary and an explanation of the method of submitting evidence and the date by which it must be received; and

(6) A statement that the charged or affected party has a right to retain counsel at the party's own expense for purposes of representation.

(b) *Settlement and amending the charging letter.* The Assistant Secretary may amend, supplement, or withdraw the charging letter at any time with the approval of a presiding official if the interests of justice would thereby be served. If a charging letter is withdrawn after a request for a hearing, the presiding official will determine whether the withdrawal will bar the Assistant Secretary from seeking sanctions at a later date for the same alleged violation. If there has been no request for a hearing, or if supporting information has not been submitted under § 354.13, the withdrawal will not bar future actions on the same alleged violation. The Assistant Secretary and a charged or affected party may settle a charge brought under this part by mutual agreement at any time after service of the charging letter; approval of the presiding official or the APO Sanctions Board is not necessary.

(c) *Service of charging letter on a resident of the United States.* (1) Service of a charging letter on a United States resident will be made by:

(i) Mailing a copy by registered or certified mail addressed to the charged or affected party at the party's last known address;

(ii) Leaving a copy with the charged or affected party or with an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service for the party; or

(iii) Leaving a copy with a person of suitable age and discretion who resides at the party's last known dwelling.

(2) Service made in the manner described in paragraph (c)(1)(ii) or (iii) of this section shall be evidenced by a certificate of service signed by the person making such service, stating the method of service and the identity of the person with whom the charging letter was left.

(d) *Service of charging letter on a non-resident.* If applicable laws or intergovernmental agreements or understandings make the methods of service set forth in paragraph (c) of this section inappropriate or ineffective, service of the charging letter on a person who is not a resident of the United States may be made by any method that is permitted by the country in which the person resides and that satisfies the due process requirements under United

States law with respect to notice in administrative proceedings.

§ 354.8 Interim sanctions.

(a) If the Assistant Secretary concludes, after issuing a charging letter under § 354.7 and before a final decision is rendered, that interim sanctions are necessary to protect the interests of the Department or others, including the protection of proprietary information, the Assistant Secretary may petition a presiding official to impose such sanctions.

(b) The presiding official may impose interim sanctions against a person upon determining that:

(1) There is probable cause to believe that there was a violation of a protective order and the Department is likely to prevail in obtaining sanctions under this Part,

(2) The Department or others are likely to suffer irreparable harm if the interim sanctions are not imposed, and

(3) The interim sanctions are a reasonable means for protecting the rights of the Department or orders while preserving to the greatest extent possible the rights of the person against whom the interim sanctions are proposed.

(c) Interim sanctions which may be imposed include any sanctions that are necessary to protect the rights of the Department or others, including, but not limited to:

(1) Denying a person further access to proprietary information,

(2) Barring a person from representing another person before the Department,

(3) Barring a person from appearing before the Department, and

(4) Requiring the person to return material previously provided by the Department and all other materials containing the propriety information, such as briefs, notes, or charts based on any such information received under an administrative protective order.

(d) The Assistant Secretary will notify the person against whom interim sanctions are sought of the request for interim sanctions and provide to that person the material submitted to the presiding official to support the request. The notice will include a reference to the procedures of this section.

(e) A person against whom interim sanctions are proposed has a right to oppose the request through submission of material to the presiding official. The presiding official has discretion to permit oral presentations and to allow further submissions.

(f) The presiding official will notify the parties of the decision on interim sanctions and the basis therefor.

(g) If interim sanctions have been imposed, the investigation and any proceedings under this part will be conducted on an expedited basis.

(h) An order imposing interim sanction may be revoked at any time by the presiding official and expires automatically upon the issuance of a final order.

(i) The presiding official may reconsider imposition of interim sanctions on the basis of new and material evidence or other good cause shown. The Assistant Secretary or a person against whom interim sanctions have been imposed may appeal a decision on interim sanctions to the APO Sanctions Board, if such an appeal is certified by the presiding official as necessary to prevent undue harm to the Department or a person against whom interim sanctions have been imposed or others or is otherwise in the interests of justice. Interim sanctions which have been imposed remain in effect while an appeal is pending, unless the presiding official determines otherwise.

(j) The Assistant Secretary may request a presiding official to impose emergency interim sanctions to preserve the status quo. Emergency interim sanctions may last no longer than 48 hours, excluding weekends and holidays. The person against whom such emergency interim sanctions are proposed need not be given prior notice or an opportunity to oppose the request for sanctions. The presiding official may impose emergency interim sanctions upon determining that the Department is, or others are, likely to suffer irreparable harm if such sanctions are not imposed and that the interests of justice would thereby be served. The presiding official will promptly notify a person against whom emergency sanctions have been imposed of the sanctions and their duration.

(k) If a hearing has not been requested, the Assistant Secretary will ask the Under Secretary to appoint a presiding official for making determinations under this section.

§ 354.9 Request for a hearing.

(a) Any party may request a hearing by submitting a written request to the Under Secretary within 30 days after the date of service of the charging letter. However, the Assistant Secretary may request a hearing only if the interests of justice would thereby be served.

(b) Upon timely receipt of a request for a hearing, the Under Secretary will appoint a presiding official to conduct the hearing and render an initial decision.

§ 354.10 Discovery.

(a) *Voluntary discovery.* All parties are encouraged to engage in voluntary discovery procedures regarding any matter, not privileged, which is relevant to the subject matter of the pending proceeding.

(b) *Interrogatories and requests for admissions or production of documents.* A party may serve on any other party interrogatories, requests for admissions, or requests for production of documents for inspection and copying, and a party concerned may then apply to the presiding official for such enforcement or protective order as that party deems warranted concerning such discovery. The party will serve a discovery request at least 20 days before the scheduled date of a hearing, if a hearing has been requested and scheduled, unless the presiding official specifies a shorter time period. Copies of interrogatories, requests for admissions and requests for production of documents and responses thereto will be served on all parties. Matters of fact or law of which admission is requested will be deemed admitted unless, within a period designated in the request (at least 10 days after the date of service of the request, or within such further time as the presiding official may allow), the party to whom the requst is directed serves upon the requesting party a sworn statement either denying specifically the matters of which admission is requested or setting forth in detail the reasons why the party cannot truthfully either admit or deny such matters.

(c) *Depositions.* Upon application of a party and for good cause shown, the presiding official may order the taking of the testimony of any person who is a party, or under the control or authority of a party, by desposition and the production of specified documents or materials by the person at the deposition. The application shall state the purpose of the deposition and shall set forth the facts sought to be established through the desposition.

(d) *Enforcement.* The presiding official may order a party to answer designated questions, to produce specified documents or items or to take any other action in response to a proper discovery request. If a party does not comply with such an order, the presiding official may make any determination or enter any order in the proceedings as he or she deems reasonable and appropriate. The presiding official may strike related charges or defenses in whole or in part, or may take particular facts relating to the discovery request to which the party failed or refused to respond as being

established for purposes of the proceeding in accordance with the contentions of the party seeking discovery. In issuing a discovery order, the presiding official will consider the necessity to protect proprietary information and will not order the release of information in circumstances where it is reasonable to conclude that such release of information in circumstances where it is reasonable to conclude that such release will lead to unauthorized disseminaiton of such information.

(e) *Role of the Under Secretary.* If a hearing has not been requested, the party seeking enforcement will ask the Under Secretary to appoint a presiding official to rule on motions under this section.

§ 354.11 Prehearing conference.

(a)(1) If an administrative hearing has been requested, the presiding official will direct the parties to attend a prehearing conference to consider:

(i) Simplification of issues;

(ii) Obtaining stipulations of fact and of documents to avoid unnecessary proof;

(iii) Settlement of the matter;

(iv) Discovery; and

(v) Such other matters as may expedite the disposition of the proceedings.

(2) Any relevant and significant stipulations or admissions will be incorporated into the initial decision.

(b) If a prehearing conference is impractical, the presiding official will direct the parties to correspond with each other or to confer by telephone or otherwise to achieve the purposes of such a conference.

§ 354.12 Hearing.

(a) *Scheduling of hearing.* The presiding official will schedule the hearing at a reasonable time, date, and place, which will be in Washington, D.C., unless the presiding official determines otherwise based upon good cause shown that another location would better serve the interests of justice. In setting the date, the presiding official will give due regard to the need for the parties adequately to prepare for the hearing and the importance of expeditiously resolving the matter.

(b) *Joinder or consolidation.* The presiding official may order joinder or consolidation if sanctions are proposed against more than one party or if violations of more than one protective order are alleged if to do so would expedite processing of the cases and not adversely affect the interests of the parties.

(c) *Hearing procedures.* Hearings will be conducted in a fair and impartial manner by the presiding official, who may limit attendance at any hearing or portion thereof if necessary or advisable in order to protect proprietary information from improper disclosure. The rules of evidence prevailing in courts of law shall not apply, and all evidentiary material the presiding official determines to be relevant and material to the proceeding and not unduly repetitious may be received into evidence and given appropriate weight. The presiding official may make such orders and determinations regarding the admissibility of evidence, conduct of examination and cross-examination and similar matters which is necessary or appropriate to ensure orderliness in the proceedings. The presiding official will ensure that a record of the hearing be taken by reporter or by electronic recording, and will order such part of the record to be sealed as is necessary to protect proprietary information.

(d) *Rights of parties.* At a hearing each party shall have the right to:

(1) Introduce and examine witnesses and submit physical evidence,

(2) Confront and cross-examine adverse witnesses,

(3) Present oral argument, and

(4) Receive a transcript or recording of the proceedings, upon request, subject to the presiding official's orders regarding sealing the record.

(e) *Representation.* Each charged or affected party has a right to represent himself or herself or to retain private counsel for that purpose. The Chief Counsel will represent the Department, unless the General Counsel determines otherwise. The presiding official may disallow a representative if such representation constitutes a conflict of interest or is otherwise not in the interests of justice and may disbar a representative for contumacious conduct relating to the proceedings.

(f) *Ex parte communications.* The parties and their representatives may not make any *ex parte* communications to the presiding official concerning the merits of the allegations or any matters at issue, except as provided in § 354.8 regarding emergency interim sanctions.

§ 354.13 Proceeding without a hearing.

If no party has requested a hearing, the Assistant Secretary, within 40 days after the date of service of a charging letter, will submit for inclusion into the record and provide each charged or affected party information supporting the allegations in the charging letter. Each charged or affected party has the right to file a written response to the information and supporting documentation within 30 days after the date of service of the information provided by the Assistant Secretary unless the Assistant Secretary alters the time period for good cause. The Assistant Secretary may allow the parties to submit further information and argument.

§ 354.14 Initial decision.

(a) *Initial decision.* The presiding official, if a hearing was requested, or the Assistant Secretary will submit an initial decision to the APO Sanctions Board, providing copies to the parties. The presiding official or Assistant Secretary will ordinarily issue the decision within 10 days of the conclusion of the hearing, if one was held, or within 15 days of the date of service of final written submissions. The initial decision will be based solely on evidence received into the record, and the pleadings of the parties.

(b) *Findings and conclusions.* The initial decision will state findings and conclusions on whether a person has violated a protective order; the basis for those findings and conclusions; and whether the sanctions proposed in the charging letter, or lesser included sanctions, should be imposed against the charged or affected party. The presiding official or Assistant Secretary may impose sanctions only upon determining that the preponderance of the evidence supports a finding of violation of a protective order and that the sanctions are warranted against the charged or affected party.

(c) *Finality of decision.* If the APO Sanctions Board has not issued a decision on the matter within 60 days after issuance of the initial decision, the initial decision becomes the final decision of the Department.

§ 354.15 Final decision.

(a) *APO Sanctions Board.* The initial decision will be reviewed by the members of the APO Sanctions Board. The Board consists of the Under Secretary for International Trade, who shall serve as Chairperson, the Under Secretary for Economic Affairs, and the General Counsel.

(b) *Comments on initial decision.* Within 30 days after issuance of the initial decision, a party may submit written comments to the APO Sanctions Board on the initial decision, which the Board will consider when reviewing the initial decision. The parties have no right to an oral presentation, although the Board may allow oral argument in its discretion.

(c) *Final decision by the APO Sanctions Board.* Within 60 days but not

sooner than 30 days issuance of an initial decision, the APO Sanctions Board may issue a final decision which: adopts the initial decision in its entirety, differs in whole or in part from the initial decision, including the imposition of lesser included sanctions, or remands the matter to the presiding official or Assistant Secretary for further consideration. The only sanctions that the Board can impose are those sanctions proposed in the charging letter or lesser included sanctions.

(d) *Contents of final decision.* If the final decision of the APO Sanctions Board does not remand the matter and differs from the initial decision, it will state findings and conclusions which differ from the initial decision, if any, the basis for those findings and conclusions, and the sanctions which are to be imposed, to the extent they differ from the sanctions in the initial decision.

(e) *Public notice of sanctions.* If the final decision is that there has been a violation of a protective order and that sanctions are to be imposed, notice of the Department's decision will be published in the **Federal Register.** Such publication will be no sooner than 30 days after issuance of a final decision or after a motion to reconsider has been denied, if such a motion was filed. The Assistant Secretary will also provide such information to the ethics panel or other disciplinary body of the appropriate bar associations or other professional associations and to any Federal agency likely to have an interest in the matter and will cooperate in any disciplinary actions by the associations or agencies.

§ 354.16 Reconsideration.

Any party may file a motion for reconsideration with the APO Sanctions Board. The party must state with particularity the grounds for the motion, including any facts or points of law which the party claims the APO Sanctions Board has overlooked or misapplied. The party may file the motion within 30 days of the issuance of the final decision or the adoption of the initial decision as the final decision, except that if the motion is based on the discovery of new and material evidence which was not known, and could not reasonably have been discovered through due diligence prior to the close of the record, the party shall file the motion within 15 days of the discovery of the new and material evidence. The party shall provide a copy of the motion to all other parties. Opposing parties may file a response within 30 days of the date of service of the motion. The response shall be considered as part of the record. The parties have no right to an oral presentation on a motion for reconsideration, but the Board may permit oral argument at its discretion. If the motion to reconsider is granted, the Board will review the record and affirm, modify, or reverse the original decision or remand the matter for further consideration to a presiding official or the Assistant Secretary, as warranted.

§ 354.17 Confidentiality.

(a) All proceedings involving allegations of a violation of a protective order shall be kept confidential until such time as the APO Sanctions Board issues a final decision, no longer subject to reconsideration, imposing a sanction (including by not acting before an initial decision becomes a final decision).

(b) The charged party or counsel for the charged party will be granted access to proprietary information in these proceedings, as necessary, under administrative protective order, consistent with the provisions of 19 CFR § 353.30 and § 355.20.

PART 355—[AMENDED]

4. The authority citation for Part 355 is revised to read as follows and the authority citations following the sections in Part 355 are removed.

Authority: 5 U.S.C. 301; 19 U.S.C. 1303; 19 U.S.C. 2501 note; subtitle IV, parts I, III, and IV of the Tariff Act of 1930, as amended by Title I of the Trade Agreements Act of 1979, Pub. L. 96–39, 93 Stat. 150; section 221 and Title VI of the Trade and Tariff Act of 1984, Pub. L. 98–573, 98 Stat. 2948; and Title XVIII, Subtitle B, Chapter 3 of the Tax Reform Act of 1986, Pub. L. 99–514, 100 Stat. 2919 (October 22, 1986).

5. 19 CFR 355.20(e)(2) is revised to read as follows:

§ 355.20 [Amended]

* * * * *

(2) * * *

(2) The imposition of such sanctions shall be in accordance with the procedures set forth in 19 CFR Part 354.

[FR Doc. 87–15101 Filed 7–2–87; 8:45 am]
BILLING CODE 3510-DS-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436 and 452

[Docket No. 87N–0154]

Erythromycin Estolate Bulk; Thin-layer Chromatographic, PH, and Identity Testing Methods

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the antibiotic drug regulations by revising the accepted standards for erythromycin estolate bulk to add a thin-layer chromatographic (TLC) assay method to identify and limit unesterified erythromycin, and by revising the pH and the identity test methods. These actions are being taken at the request of a manufacturer and to provide better quality control of this product.

DATES: Comments by September 4, 1987; requests for an informal conference by August 5, 1987.

ADDRESS: Written comments, or requests for conference to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drugs and Biologics (HFN–815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: At the request of a manufacturer, FDA is proposing to amend the antibiotic drug regulations for erythromycin estolate bulk to: (1) Add a TLC test for free (unesterified) erythromycin content with an upper limit of not more than 3 percent, (2) revise the quantity of sample used in the pH assay procedure from 100 milligrams per milliliter (mg/mL) to 10 mg/mL, and (3) revise the sample preparation method used in the identity test by infrared spectrophotometry from a 1 percent solution of the sample in chloroform to a 1 percent mixture of sample in potassium bromide.

The proposed TLC assay method is intended as a specific test for the detection of an unwanted impurity (unesterified erythromycin) in erythromycin estolate bulk with a proposed limit of not more than 3 percent. The manufacturer has demonstrated that the proposed test method employs common laboratory equipment and solvents, requires minimal sample preparation, has excellent sensitivity and separation, and can be completed in less than 30 minutes. Thus, the manufacturer recommends that the proposed TLC assay method be specified in the monograph for erythromycin estolate bulk to provide a fast, sensitive, easily performed, inexpensive test that would allow a limit to be set for an unwanted impurity.

The current pH assay procedure for erythromycin estolate bulk uses an aqueous suspension of the sample at a

concentration of 100 mg/mL. The manufacturer contends that because the solubility of erythromycin estolate in water is 0.024 mg/mL, the current sample concentration of 100 mg/mL is excessive for purposes of the test. The manufacturer believes that a lower sample concentration would be sufficent for the pH determination of erythromycin estolate bulk and recommends revising the sample concentration to 10 mg/mL.

The current sample preparation method for the identity test by infrared spectrophotometry for erythromycin estolate bulk is a 1 percent solution of the sample in chloroform. The manufacturer has determined, however, that erythromycin estolate samples diluted in chloroform show changes in the 1,500 to 2,000 centimeters^{-1} region of the infrared spectrum with time. In order to improve the stability of the erythromycin estolate sample, the manufacturer recommends a change to a 1 percent mixture of the sample in potassium bromide for the sample preparation method.

FDA has reviewed the manufacturer's request and has tentatively concluded that the requested changes are acceptable. Therefore, FDA is proposing that the monograph for bulk erythromycin estolate be amended to add a TLC test for free erythromycin with an upper limit of not more than 3 percent, to revise the quantity of sample used in the pH assay procedure from 100 mg/mL to 10 mg/mL, and to revise the sample preparation method used in the identity test by infrared spectrophotometry from a 1 percent solution of the sample in chloroform to a 1 percent mixture of the sample in potassium bromide.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

The agency has considered the economic impact of this proposed rule and has determined that it does not require a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). Specifically, the proposal would impose an insubstantial amendment to existing requirements and would refine existing technical provisions without imposing more stringent requirements. Accordingly, the agency certifies that this rulemaking, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Submitting Comments or Requests for Conference

Interested persons may, on or before September 4, 1987, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may, on or before August 5, 1987, submit to the Dockets Management Branch a request for an informal conference. The participants in an informal conference, if one is held, will have until September 4, 1987, or 30 days after the day of the conference, whichever is later, to submit their comments.

List of Subjects in 21 CFR Parts 436 and 452

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs, it is proposed that Parts 436 and 452 be amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. The authority citation for 21 CFR Part 436 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

2. In Part 436 by adding new § 436.362 to read as follows:

§ 436.362 Thin-layer chromatographic test for free erythromycin content in erythromycin estolate bulk.

(a) *Equipment*—(1) *Chromatography tank.* A rectangular tank approximately 23 centimeters long, 23 centimeters high, and 9 centimeters wide, equipped with a glass solvent trough in the bottom and a tight-fitting cover for the top.

(2) *Plates.* Use a 20- by 20-centimeter precoated silica gel 60 F-254 thin-layer chromatography plate. Before using, place the plate in an unlined developing chamber containing approximately 100 milliliters of anhydrous methanol and allow the solvent front to travel to the top of the plate, marking the direction of travel. Remove the plate and allow to drip dry. Store in a dry place.

(b) *Reagents*—(1) *Developing solvent.* Mix 15 milliliters of chloroform and 85 milliliters of anhydrous methanol. Use fresh developing solvent for each test.

(2) *Spray solution.* Dissolve 150 milligrams of xanthydrol in a mixture of 7.5 milliliters of glacial acetic acid and 92.5 milliliters of 37 percent hydrochloric acid.

(c) *Preparation of spotting solutions*—(1) *Sample solution.* Prepare a solution of the sample in anhydrous methanol to contain 10 milligrams per milliliter. (NOTE: It is advisable to prepare the sample and standard solutions immediately before spotting to minimize the possibility of degradation in solution.)

(2) *Standard solution.* Prepare a solution of erythromycin base reference standard in anhydrous methanol to contain 1 milligram per milliliter. Weigh 99.5, 99.0, and 97.0 milligrams of erythromycin estolate (propionyl erythromycin lauryl sulfate) reference standard and transfer to separate 10-milliliter volumetric flasks. To these flasks add 0.5, 1.0, and 3.0 milliliters, respectively, of the 1-milligram-per-milliliter solution of erythromycin base reference standard and dilute to volume with anhydrous methanol. These solutions contain, respectively, 0.5 percent, 1.0 percent, and 3.0 percent erythromycin base in erythromycin estolate. Prepare a solution of erythromycin estolate reference standard in anhydrous methanol to contain 10 milligrams per milliliter. Prepare a solution of erythromycin base reference standard in anhydrous methanol to contain 0.1 milligram per milliliter.

(d) *Procedure.* Pour 100 milliliters of developing solvent into the glass trough on the botton of the unlined chromatography tank. Cover and seal the tank. Allow it to equilibrate while the plate is being prepared. Prepare a plate as follows: On a line 2.0 centimeters from the base of the thin-layer plate, apply 1.0 microliter of each of the following solutions:

(1) 10-milligrams-per-milliliter solution of erythromycin estolate reference standard, equivalent to 10 micrograms of erythromycin estolate;

(2) 0.5 percent base-in-estolate solution, equivalent to 0.05 microgram of base and 9.95 micrograms of estolate;

(3) 1.0 percent base-in-estolate solution, equivalent to 0.10 microgram of base and 9.90 micrograms of estolate;

(4) 3.0 percent base-in-estolate solution, equivalent to 0.30 microgram of base and 9.70 micrograms of estolate;

(5) 0.1-milligram-per-milliliter solution of erythromycin base reference

standard, equivalent to 0.1 microgram of erythromycin base; and

(6) Sample solution, equivalent to 10 micrograms of erythromycin estolate. Allow the spots to dry. Place the plate directly in the chromatography tank. Cover and seal the tank. Allow the solvent front to travel a distance of 7 centimeters (about 27 minutes). Remove the plate from the tank, and allow it to air dry under a hood. With the plate still under the hood, spray uniformly with the spray solution. Heat the sprayed plate in an oven at 100 °C for 5 minutes. (CAUTION: Avoid exposure to the acid fumes while removing the plate from the oven.)

(e) *Evaluation.* Erythromycin base and erythromycin estolate appear as reddish-violet spots on the sprayed and heated plate. Better visualization of the erythromycin base spots may be gained by viewing the plate under long-wavelength (366 nanometers) ultraviolet light, erythromycin base appearing as dark spots on a yellow-green fluorescent background. Erythromycin base has an R_f value of about 0.3. Erythromycin estolate has an R_f value of about 0.7. Compare the size and intensity of any erythromycin base spots in the sample lane with the erythromycin base spots in the erythromycin base reference standard lane and in the 0.5 percent, 1.0 percent, and 3.0 percent base-in-estolate lanes, and report the percentage of erythromycin base (free erythromycin) in the sample. For a more accurate determination of free erythromycin content, if may be necessary to repeat the test using a different set of standards.

PART 452—MACROLIDE ANTIBIOTIC DRUGS

3. The authority citation for 21 CFR Part 452 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

4. In Part 452 in § 452.15 by revising paragraphs (a)(1)(ii) and (3)(i) and (b)(2), (4), and (6) to read as follows:

§ 452.15 Erythromycin estolate.

(a) * * *

(1) * * *

(ii) Its free erythromycin content is not more than 3.0 percent.

* * * * *

(3) * * *

(i) Results of tests and assays on the batch for potency, free erythromycin content, moisture, pH, crystallinity, and identity.

* * * * *

(b) * * *

(2) *Free erythromycin content.* Proceed as directed in § 436.362 of this chapter.

* * * * *

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous suspension containing 10 milligrams per milliliter.

* * * * *

(6) *Identity test.* Proceed as directed in § 436.211 of this chapter, preparing the sample as described in paragraph (b)(1) of that section.

Dated: June 25, 1987.

Sammie R. Young,

Deputy Director, Office of Compliance.

[FR Doc. 87–15203 Filed 7–2–87; 8:45 am]

BILLING CODE 4160-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Bereavement Counseling

AGENCY: Veterans Administration.

ACTION: Proposed rule.

SUMMARY: The Veterans Administration (VA) proposes to amend the regulations that provide for the furnishing of mental health services to the members of the immediate family or legal guardian of veterans. The amendment will allow the continuation of care for a limited period of time in cases where family members were receiving counseling or mental health services from the VA and the veteran dies unexpectedly or while participating in a VA hospice program.

DATES: Written comments must be received on or before August 4, 1987. It is proposed to make these services available on or after the effective date of the final regulations.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, Room 132 of the above address, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until August 18, 1987.

FOR FURTHER INFORMATION CONTACT: Karen Walters, Chief, Policies and Procedures Division, Medical Administration Service, Department of Medicine and Surgery, (202) 233–2143.

SUPPLEMENTARY INFORMATION: The Veterans Benefits Improvement and Health-Care Authorization Act, Pub. L. 99–576, provides the VA the authority to continue certain counseling services for a deceased veteran's family or legal guardian. The VA is proposing to amend 38 CFR 17.60f in order to provide bereavement counseling for members of the immediate family or legal guardian for a limited period of time, not to exceed 60 days, after the unexpected death of the veteran or death of the veteran while the veteran was participating in a VA hospice or similar VA program offering services to terminally-ill veterans. An unexpected death is a terminal event that occurs in the course of an illness when the provider of care did not or could not have anticipated the timing of the terminal event. That is, prognostically, the provider of care can usually anticipate that the patient has entered the terminal stage in the natural history of a disease and can inform the patient and family of the immediacy and certainty of death. Clinically, when such preparation has not taken place, a death can be described as unexpected.

Eligibility for bereavement counseling would be limited to a veteran's family members of legal guardian or person in whose household the veteran certifies an intention to live who where receiving counseling or mental health services from the VA in connection with the veteran's care prior to the death of the veteran. This proposed regulatory amendment will allow the VA to provide continued care to the family members or legal guardian or other person after the death of a veteran to assist with the emotional and psychological stress accompanying the veteran's death. This care may be provided for a limited period of time, not to exceed 60 days, following the death of the veteran, to be determined by the Medical Center Director, However, the Medical Center Director may approve a longer period of time when medically indicated.

Executive Order 12291

This proposed regulatory amendment is considered nonmajor under the criteria of Executive Order 12291, Federal Regulation. They will not have an annual effect on the economy of $100 million or more; will not result in major increases in costs for consumers, individual industries, Federal, State or local government agencies, or geographic regions, nor will they have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to complete with foreign-

based enterprises in domestic or export markets.

The Administrator hereby certifies that this proposed regulatory amendment, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This proposed regulatory amendment concerns the provision of bereavement counseling to the immediate family and legal guardian of veterans who die unexpectedly or while in a VA hospice program. Any economic impact on small entities would be small because of the minimal part of their overall operation and income which this activity represents.

The Catalog of Federal Domestic Assistance number is 674.001.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants programs-health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: April 1, 1987.

Thomas K. Turnage,

Administrator.

PART 17—[AMENDED]

38 CFR Part 17—Medical, is amended by revising § 17.60f to read as follows:

§ 17.60f Mental health services.

(a) Continuation of mental health services, as defined in § 17.30(l)(2), may be furnished the members of the immediate family, or legal guardian or the person or the individual in whose household such person certifies an intention to live, provided the person is eligible under provisions of §§ 17.47, 17.54, 17.57 or 17.60(a), (b), or (f). Continued care may be provided for a limited period of time, as determined by the Medical Center Director, but not to exceed 60 days, when the unexpected death of the veteran occurs or the death of the veteran occurs while the veteran was participating in a VA hospice program. The Medical Center Director may approve a longer period of time when medically indicated.

(b) An unexpected death is a terminal event that occurs in the course of an illness when the provider of care did not or could not have anticipated the timing of the terminal event. That is, prognostically, the provider of care can usually anticipate that the patient has entered the terminal stage in the natural history of a disease and can inform the patient and family of the immediacy and certainty of death. Clinically when such preparation has not taken place, a death can be described as unexpected. Such counseling services are to assist individuals with the emotional and psychological stress accompanying the veteran's death.

(38 U.S.C. 601(6))

[FR Doc. 87–15168 Filed 7–2–87; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 22

[FRL–3190–5]

Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 8, 1984, the President signed into law the Hazardous and Solid Waste Amendments of 1984 (HSWA). This statute made numerous changes to the Solid Waste Disposal Act (SWDA), commonly referred to as the Resource Conservation and Recovery Act (RCRA), including the addition of Subtitle I—Regulation of Underground Storage Tanks (Sections 9001–9010 of SWDA). Section 9006 authorizes EPA to take enforcement action against any person who violates any requirement of Subtitle I.

The purpose of this rule is to extend the applicability of the consolidated rules of practice, 40 CFR Part 22, which govern administrative adjudicatory proceedings, to administrative enforcement actions taken pursuant to Section 9006 of SWDA, as amended, which is the enforcement section of Subtitle I. Administrative enforcement actions under Section 9006 include orders assessing penalties and orders requiring both mandatory and prohibitive injunctive relief.

This rule is intended to govern appeals of administrative enforcement actions taken pursuant to Subtitle I for statutory requirements already in effect, as well as for enforcement of regulations to be promulgated in the future pursuant to Subtitle I.

DATE: Comments on this proposed rule will be accepted until September 4, 1987.

ADDRESS: The public must submit an original and two copies of their comments to: Joseph Schive, (202) 382–3068, Mail Code LE–134S, Office of Enforcement and Compliance Monitoring, Waste Enforcement Division, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Joseph Schive, at the address above. Telephone (202) 382–3068.

SUPPLEMENTARY INFORMATION:

I. Authority

The consolidated rules of practice were promulgated on April 9, 1980, at 45 FR 24360, under the authority of sections 2002 and 3008 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6912 and 6928, as well as under the authority of sections 14 and 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, sections 211 and 301 of the Clean Air Act, Sections 105 and 108 of the Marine Protection, Research, and Sanctuaries Act, and section 16 of the Toxic Substances Control Act. This amendment to the consolidated rules of practice, 40 CFR Part 22, is issued under the authority of sections 2002 and 9006 of SWDA, as amended by HSWA, 42 U.S.C. 6912 and 6991e.

II. Background

On November 8, 1984, the President signed into law the Hazardous and Solid Waste Amendments of 1984 (HSWA). (For a more complete discussion of the impact of this statute, see 50 FR 28702.) Among the significant changes included in HSWA is a major new program for the regulation of underground storage tanks, found in the new Subtitle I of SWDA, sections 9001–9010.

III. Purpose of Today's Proposed Rule

This purpose of today's proposed rule is to establish administrative procedures for appeal of orders issued pursuant to section 9006 of SWDA. This proposed rule provides that such proceedings shall be conducted pursuant to 40 CFR Part 22.

Subtitle I establishes a program to regulate underground storage tanks (USTs). EPA has promulgated regulations pursuant to section 9002(a), which require UST owners to notify State authorities of the existence of their tanks and to provide certain information concerning the tanks. Section 9003 of Subtitle I requires EPA to promulgate regulations designed to prevent and detect releases from USTs, regulations governing corrective actions to be taken in the event releases occur, and regulations establishing financial responsibility and recordkeeping requirements. The regulations are to

apply to all owners and operators of USTs. Section 9003(g) provides for an "Interim Prohibition" against the installation of certain tanks not meeting specified criteria. Section 9003(g) will remain in effect until new tank standards become effective.

Section 9004 provides for State program approval and outlines the requirements which States must incorporate into their programs to qualify for approval as authorized State programs that operate in lieu of the Federal program.

EPA is authorized to issue compliance orders pursuant to section 9006 to any person in violation of any requirement of Subtitle I. Such violations include, but are not limited to, violations of section 9003(g), violations of regulations promulgated pursuant to section 9003, requirements of standards of any State program approved under section 9004, and failure to respond to information requests made pursuant to section 9005.

Section 9006 also authorizes EPA to assess civil penalties not to exceed $10,000 per tank for each day of violation of section 9003(g), requirements or standards of sections 9002(a) or 9003, or requirements or standards of any State program approved under section 9004. EPA is also authorized to seek penalties in a civil judicial action of not more than $25,000 per day for each continued day of noncompliance with an order issued under section 9006.

Orders issued under section 9006 become final unless, within 30 days of service, the person(s) named in the order requests a public hearing. Under today's proposed amendment to the consolidated rules of practice, once an order is served, the recipient (respondent) may request a hearing within 30 days of receipt of the order, pursuant to 40 CFR Part 22. A respondent requesting a hearing would have the opportunity to present his case according to the provisions of Part 22. Today's proposed rulemaking adopts the existing practice for administrative orders issued under section 3008 for violations of Subtitle C of SWDA.

The Agency is currently considering whether the procedures contained in Part 22 are the most appropriate procedures for those administrative orders which seek injunctive relief rather than those which seek penalties or permit revocation. In situations where action should be taken to correct statutory or regulatory violations or remediate environmental contamination, it may be appropriate to establish an administrative process which is more streamlined than that set forth in the Part 22 rules, but which nonetheless affords respondents adequate opportunity to contest Agency enforcement actions. This issue could affect administrative orders issued under section 9006, as well as orders issued under comparable provisions of other statutes.

In order to facilitate implementing Subtitle I administrative enforcement, the Agency believes that the proposed rule extending Part 22 to cover all administrative enforcement actions should be published promptly while review of the issues regarding injunctive provisions continues. If the Agency decides that different procedures for injunctive relief are appropriate, this will be addressed in a separate rulemaking action.

EPA has issued program guidance which directs that the consolidated rules of practice be utilized as the applicable appeals procedures for compliance orders issued pursuant to Section 9006 of SWDA. (See EPA Guideline Document entitled, Enforcement Strategy and Procedures for the Interim Prohibition, SWDA 9003(g), (September 16, 1986)). Today's proposed rule proposes to codify this guidance by amending 40 CFR Part 22 to include in its scope compliance orders issued pursuant to section 9006.

IV. Regulatory Flexibility Act

This proposed rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

V. List of Subjects in 40 CFR Part 22

Administrative procedures and practice, Hazardous materials, Penalties, Solid Waste Disposal Act, Underground storage tanks.

Dated: June 29, 1987.

Lee M. Thomas,

Administator.

For the reasons stated in the preamble, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION OR SUSPENSION OF PERMITS.

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

Authority: Sec. 16 of the Toxic Substances Control Act; Secs. 211 and 301 of the Clean Air Act; Secs. 14 and 25 of the Federal Insecticide, Fungicide, and Rodenticide Act; Secs. 105 and 108 of the Marine Protection, Research, and Sanctuaries Act; and Secs. 2002, 3008, and 9006 of the Solid Waste Disposal Act.

2. Section 22.01 is amended by revising paragraph (a)(4) to read as follows:

§ 22.01 Scope of these rules.

(a) * * *

(4) The issuance of an order or the assessment of any civil penalty under Sections 3008 and 9006 of the Solid Waste Disposal Act as amended (42 U.S.C. 6928 and 6991e);

* * * * *

[FR Doc. 87-15244 Filed 7-2-87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[FRL-3228-3]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; VOC Bubble Regulations; Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On June 1, 1987 (52 FR 20422) EPA proposed approval of revisions to the Commonwealth of Massachusetts' State Implementation Plan. The Natural Resources Defense Council (NRDC) has requested an extension of time for public comment. EPA has evaluated these requests and is hereby granting a 30 day extension of the public comment period.

DATES: Comments must be received on or before August 1, 1987.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene at (617) 565-3244; FTS 835-3244.

Authority Citation: 42 U.S.C. 7401-7642.

Dated: June 25, 1987.

Paul Keough,

Acting Regional Administrator, Region I.

[FR Doc. 87-15243 Filed 7-2-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 361

Criteria for Earthquake Hazards Reduction Assistance to State and Local Governments

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: The purpose of this regulation is to establish policy and provide criteria for the provision of financial and technical assistance to States and local governments by the Federal Emergency Management Agency (FEMA), under the Earthquake Hazards Reduction Act of 1977 (Pub. L. 95–124, amended by Pub. L. 96–472). This regulation supersedes that portion of 44 CFR 300.6, Earthquake and Hurricane Plans and Preparedness, which pertains to earthquake preparedness.

In keeping with the trend of Federal programs of assistance to State and local governments toward increased cost sharing, FEMA intends to initiate cost sharing with States (and local governments, where appropriate) for their earthquake hazards reduction programs. These programs have in the past been (in most but not all cases) 100 percent federally funded. This proposed rule sets out the requirements for cost sharing. The final objective is cost sharing on a 50 percent Federal-50 percent non-Federal basis, with the non-Federal contribution required to be cash.

FEMA realizes, however, that timing and other contingencies may preclude the availability of State cash contributions for earthquake hazards reduction activities in time for Fiscal Year (FY) 1988. In order to accommodate States, therefore, FEMA plans to phase in cost sharing over a period of three years. In FY 1988, minimum cost sharing requirements will be instituted, which will continue through Fy 1989. Beginning in FY 1990, cost sharing will be required on the minimum basis of 50 percent Federal-50 percent non-Federal, with the non-Federal contribution required to be cash. This regulation would provide official notice to States of this pending requirements.

DATE: Comments must be received on or before August 5, 1987.

ADDRESSES: Comments should be mailed to the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Terry Feldman, Earthquakes and Natural Hazards Programs Division, Office of Natural and Technological Hazards Programs, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4145.

SUPPLEMENTARY INFORMATION: Congress enacted the Earthquake Hazards Reduction Act of 1977 with the purpose of reducing the loss of life and damage to property "from future earthquakes in the United States through the establishment and maintenance of an effective earthquake hazards reduction program." The Federal Emergency Management Agency (FEMA) has been designated as the lead Federal agency with responsibility for implementing this National Earthquake Hazards Reduction Program (NEHRP). FEMA exercises this responsibility in close cooperation with the three other principal Federal agencies of the program: U.S. Geological Survey, National Science Foundation, and the National Bureau of Standards. Each of these agencies is responsible for those specific aspects of the NEHRP that are most closely related to its own overall mission.

In addition to its lead agency responsibilities (Pub. L. 96–472, section 101(b)), FEMA is responsible under the Earthquake Hazards Reduction Act for supporting State and local earthquake hazards reduction programs, supporting the development and implementation of seismic design and construction standards, leading the Federal earthquake response planning effort, conducting mitigation and multihazard preparedness planning, and fostering earthquake education and information transfer. The support of State and local earthquake hazards reduction programs focuses on the provision of financial and technical assistance to States, and, through them, to local governments upon occasion, in order to further the purposes of the Act. This includes making available the results of research and other activities carried out by FEMA and the other principal and participating Federal agencies under the NEHRP. (For simplicity and clarity of expression in the remainder of this discussion, where the term "State" is used alone, it is defined to mean local governments as well).

Guidance on earthquake hazards reduction programs is found in FEMA publication Civil Preparedness Guide (CPG) 2–18, *State and Local Earthquake Hazards Reduction: Implementation of FEMA Funding and Support.* Copies are available by writing to FEMA, P.O. Box 70274, Washington, DC 20424. Chapter 3 of that document delineates broad categories or program elements for State and local earthquake hazards reduction efforts and provides guidance for developing proposed activities for funding. The activities for which States may apply for funding fall into six major categories or program elements: State seismic advisory boards, hazard indentification, vulnerability assessments, preparedness and response planning, mitigation planning, and public awareness/education.

The vehicle used by FEMA for providing financial and technical assistance to States is a Comprehensive Cooperative Agreement (CCA) with the State department of emergency management or another agency designated by the Governor as having responsibility for such a program. Funding is usually not provided by FEMA directly to local units of government. If it is determined through negotiations or other discussions with State and/or local officials that FEMA funding is to be provided to a local jurisdiction, the funding will generally be passed through the appropriate State agency to the local government. This will facilitate the coordination required to assure that local efforts are consistent with State requirements, policies, and related projects.

The following high risk areas have been identified through the NEHRP as being eligible for earthquake hazards reduction financial assistance from FEMA: northern California (San Franciso Bay area); southern Calfornia (Los Angeles and San Diego areas); Puget Sound, Washington; Anchorage, Alaska; Honolulu, Hawaii; Salt Lake City, Utah; Boston, Massachusetts; Charleston, South Carolina; upper New York State; the Central United States (Arkansas, Mississippi, Tennessee, Kentucky, Illinois, Indiana, and Missouri); Puerto Rico and the Virgin Islands. This high-risk designation is based on consideration of the following factors: seismic risk (including the historic occurrence of damaging earthquakes and probable seismic activity), total population and major urban concentrations in the risk area, and industrial concentration in the risk area. It is important to note that a seismic risk area, and, hence, the project area for earthquake hazards reduction activities, may not necessarily include an entire State, although for convenience the name of the State will often be used to designate a particular earthquake hazards reduction project.

FEMA is focusing available earthquake hazards reduction funding on these twelve high-risk areas in order to obtain the greatest benefit in

earthquake hazards reduction for the available funds. FEMA acknowledges that many States are subject to low or moderate earthquake risk. Considering the limited funding available, however, FEMA is proposing to give priority in the allocation of earthquake hazards reduction assistance to those States with the greatest vulnerability.

The purpose of this proposed rule is to formalize FEMA's program of State assistance for earthquake hazards reduction by providing criteria for State eligibility, defining those activities eligible for funding, and providing criteria for formal cost sharing with the States. This proposed rule will replace and update 44 CFR 300.6, which covers both earthquake and hurricane plans and preparedness.

Cost sharing is being initiated to foster commitment within the States to ongoing programs of earthquake hazards reduction. State and local governments have the initial, direct responsibility for the protection of lives and property from earthquakes, as part of their overall responsibilities related to public health, safety, and welfare. It is, therefore, FEMA's policy to support and encourage development at the State level of an institutionalized program and capability in earthquake hazards reduction. This will also help assure that there will exist at the State level an infrastructure able to utilize, disseminate, and adapt the various products made available through the other elements of the NEHRP (e.g., seismic design provisions, and awareness/education materials). The success of these products is dependent upon a demonstrated commitment of State and local governments to utilize and implement them. FEMA believes that having States share the cost of their federally supported programs is an effective way of developing and sustaining their commitment to earthquake hazards reduction.

Cost sharing will be initiated in Fiscal Year (FY) 1988 with requirements designed to minimize disruption of ongoing State earthquake hazards reduction programs. Similar requirements will apply in FY 1889. In FY 1990, however, the requirements for cost sharing will be increased.

The specific requirements are that in FY 1988 cost sharing will require a minimum of a 25 percent non-Federal contribution to the cost of earthquake hazards reduction programs. FEMA prefers that this contribution be cash, but an in-kind match is acceptable. In FY 1989, these requirements will remain effective. States are encouraged, however, to add or increase the proportion of cash in their contributions, and to increase their percentage of earthquake hazards reduction support to 50 percent (or more, if possible). Further, a condition of eligibility for FEMA earthquake funds for FY 1989 is documentation by the States of the progress they are making towards obtaining the funds that will be required for FY 1990. This will provide FEMA with an accurate assessment of continued State participation in the earthquake program, and prevent the Agency from expending funds on States that may not be participating in subsequent years. Beginning in FY 1990, cost sharing will be required on the basis of a 50 percent Federal-50 percent State match. The State match must be cash; in-kind matching will no longer be acceptable.

The Office of Management and Budget (OMB) has approved 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.* and has assigned OMB control numbers 3067–0123 and 3067–0142. Submit comments on these requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503 marked "Attention: Desk Officer for FEMA." The final rule will respond to any OMB or public comments on the information collection requirements.

The Director of FEMA has determined that there will be a 30 day period following publication of this proposed rule during which the public may submit comments thereon. This exception to the usual 60 day comment period is necessary in order for the final rule to be effective in time for the start of FY 1988. Until the requirements of the final rule are determined (based in part upon the comments received on this proposed rule), FEMA will be unable to provide definitive instructions to the States regarding their FY 1988 programs. It is therefore in the best interest of the States that guidance, in the form of the final version of this proposed rule, be published as early as possible prior to the start of FY 1988. A 30 day comment period will expedite this process.

Environmental Considerations

Based on an environmental assessment prepared by FEMA, it has been determined that this action is not a major Federal action significantly affecting the quality of the human environment. Therefore, no environmental impact statement will be prepared.

Regulatory Flexibility Act

The Agency has determined that this rule is not a major rule under Executive Order 12291, and I certify that the rule will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. The proposed regulatory changes are not likely to create a significant economic impact on a substantial number of small entities. Therefore, a regulatory impact analysis will not be prepared.

List of Subjects in 44 CFR Part 361

Disaster assistance, Grant programs, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Title 44, Chapter I of the Code of Federal Regulations is proposed to be amended by adding a new Part 361 as follows:

PART 361—CRITERIA FOR EARTHQUAKE HAZARDS REDUCTION ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Sec.

Authority: Reorganization Plan Number 3 of 1978; 42 U.S.C. 7701 *et seq.* Executive Orders 12148 and 12381. Earthquake Hazards Reduction Act of 1977 (Pub. L. 95–124) and amendments (Pub. L. 96–472).

§ 361.1 Purpose.

This part prescribes the policies to be followed by the Federal Emergency Management Agency (FEMA) and States in the administration of FEMA's earthquake hazards reduction assistance program, and establishes criteria for cost sharing.

§ 361.2 Definitions.

(a) "Cash Contribution" means the State cash outlay, including the outlay of money contributed to the State by other public agencies, institutions, private organizations, and individuals.

(b) "Cost Sharing" and "Matching" represent that portion of project costs not borne by the Federal Government.

(c) "Eligible Activities" are activities for which FEMA may provide funding to States on a cost-shared basis. They include specific activities and/or programs related to earthquake hazards reduction which fall into one or more of the following general categories: State

seismic advisory boards, hazard identification, vulnerability assessments, preparedness and response planning, mitigation planning, and public awareness/education. The activities that will actually be funded shall be determined through individual negotiations between FEMA and the States (see criteria in § 361.3(e)).

(d) "In-kind Contributions" represent the value of noncash contributions provided by the States and other non-Federal parties. In-kind contributions may be in the form of charges for real property and nonexpendable personal property and the value of goods and services directly benefiting and specifically identifiable to the States' earthquake hazards reduction programs.

(e) "Project" means the complete set of earthquake hazards reduction activities undertaken by a State, or other jurisdiction, on a cost-shared basis with FEMA in a given fiscal year.

(f) "Project Period" is the duration of time over which an earthquake hazards reduction project is implemented. This generally corresponds to the Federal fiscal year, i.e., it begins on the first day of a given fiscal year (or as soon as that year's funds are obligated by FEMA to the State) and ends of the last day of that fiscal year. The project period may extend beyond the end of the fiscal year for which the funds are appropriated, as long as FEMA obligates all that year's funds to the State before the end of that year.

(g) "State" means one or more of the States of the United States of America, and includes Puerto Rico and the Virgin Islands. It also means local units of government and/or substate areas that include a number of local government jurisdictions.

(h) "State Assistance" means the funding provided by FEMA under the National Earthquake Hazards Reduction Program (NEHRP) to States to conduct programs and activities specifically related to earthquake hazards reduction. The term also includes assistance to local units of government and/or substate areas, such as a group of several counties.

(i) "Target Allocation" is the maximum amount of earthquake program funds provided by FEMA to a given high risk State in a fiscal year. It is based primarily upon the total amount of State assistance funds available to FEMA annually, the number of high risk States, and the degree of seismic risk and population-at-risk of each of these States.

§ 361.3 Program description.

(a) An objective of the Earthquake Hazards Reduction Act is to develop, in areas of seismic risk, improved understanding of an capability with respect to earthquake-related issues, including methods of controlling the risks, planning to prevent such risks, disseminating warnings of earthquakes, organizing emergency services, and planning for post-earthquake recovery. To achieve this objective, FEMA has implemented an earthquake hazards reduction assistance program for State and local governments in seismic risk areas.

(b) This assistance program provides funding for earthquake hazards reduction activities which are eligible according to the definition in § 361.2(c). The categories, or program elements, listed therein comprise a comprehensive program of earthquake hazards reduction for any given seismic risk area. key aspects of each of these elements are as follows:

(1) *State Seismic Advisory Boards* provide State and local officials responsible for implementing earthquake hazards reduction programs with expert advice in a variety of fields. Boards can identify short- and long-term needs, and provide for interdisciplinary discussion of related topics and issues, in addition to developing a consistent statewide approach to earthquake hazards reduction at the local government level.

(2) *Hazard Identification* defines the potential for earthquakes and their related geological hazards in a particular area. It may include:

(i) a presumed specific magnitude earthquake at a specific location, and

(ii) a description of the ground shaking, fault repture, landslides, liquefaction, and other geologic hazards resulting from that magnitude event.

(3) *Vulnerability Assessments*, also known as loss estimation studies, provide information on the impacts and consequences of an earthquake on an area's resources, as well as on opportunities for earthquake hazards mitigation. As such, they are necessary to the development of both preparedness and response plans, and mitigation strategies. They may include estimates of parameters such as:

(i) The number of people killed, injured, or left homeless by an earthquake,
(ii) Damage to critical facilities, lifelines, uitilities, and transportation systems,
(iii) Medical needs and available resources,
(iv) Damages to structures and buildings, and
(v) Secondary impacts (fire, dam or levee failures, hazardous materials spills, toxic releases, etc.).

(4) *Preparedness/Response Planning* are closely related and usually considered as one comprehensive activity. They do differ, however, in that preparedness planning involves those efforts undertaken before an earthquake to prepare for and/or improve capability to respond to the event, while response planning can be defined as response once the earthquake has occurred. Preparedness/response planning usually consider functions related to the following:

(i) Rescue and fire services,
(ii) Medical services,
(iii) Damage assessments,
(iv) Communications,
(v) Security,
(vi) Restoration of lifeline and utility services,
(vii) Transportation,
(viii) Sheltering,
(ix) Public health and information services,
(x) Post-disaster recovery and the return of economic stability,
(xi) Secondary impacts, such as dam failures, toxic releases, etc., and
(xii) Organization and management.

(5) *Mitigation Planning* involves developing and implementing strategies for reducing losses from earthquakes by incorporating principles of seismic safety into public and private decisions regarding the siting, design, and construction of structures; and regarding buildings' nonstructural elements, contents and furnishings. Mitigation also involves developing plans for identifying and retrofitting existing structures that pose threats to life or would suffer major damage in the event of a serious earthquake. Mitigation planning also may involve facilities other than buildings, e.g., dams, hazardous material storage sites, industrial plants, etc.

(6) *Public Awareness/Earthquake Education* activities are designed to increase public awareness of earthquake and their associated risks, and to stimulate behavorial changes to foster a self-help approach to earthquake preparedness, response, and mitigation. Audiences that may be targeted for such efforts include:

(i) The general public,
(ii) School populations (administrators, teachers, students and parents),
(iii) Special needs groups (e.g., elderly, disabled, non-English speaking),
(iv) Business and industry,
(v) Engineers, architects , builders,
(vi) The media, and
(vii) Public officials.

(c) State eligibility for FEMA State assistance under the NEHRP is based on the following criteria:

(1) Seismic risk, including the historic occurrence of damaging earthquakes, as well as probable seismic activity,

(2) Total population and major urban concentrations, exposed to such risk, and

(3) Industrial concentration exposed to such risk.

(d) Each fiscal year, FEMA will establish a target allocation of earthquake program funds for each eligible State.

(e) The specific activities, and the distribution of funds among them, that will be undertaken with this assistance will be determined during the annual Comprehensive Cooperative Agreement (CCA) negotiations between FEMA and the State, and will be based upon the following:

(1) The availability of information regarding identification of seismic hazards and vulnerability to those hazards,

(2) Earthquake hazards reduction accomplishments of the State to date,

(3) State and Federal priorities for needed earthquake hazards reduction activities, and

(4) State and local capabilities with respect to staffing, professional expertise, and funding.

(f) All State assistance will be cost shared. Cost sharing will be phased in over a three year period, beginning with Fiscal Year (FY) 1988. The full cost sharing program will be implemented in FY 1990. The sequence is as follows:

(1) For FY 1988, the minimum acceptable non-Federal contribution is 25 percent of the total program cost. While FEMA prefers this to be in cash, in-kind matching is acceptable.

(2) For FY 1989, the requirements stated above for FY 1988 will remain effective.

(i) States are encouraged, however, to use this year to add cash to or increase the proportion of cash in their match, and to increase their total match to 50 percent (or more, if possible) of the total program.

(ii) A further condition of eligibility for State assistance in FY 1989 will be documentation by each State of its progress toward meeting the requirements for full (i.e., 50–50 cash) cost sharing in FY 1990.

(3) In FY 1990, the full cost sharing program will be implemented. The requirements are that cost sharing will be 50 percent Federal-50 percent non-Federal, and the non-Federal share must be cash. In-kind matching will no longer be acceptable. Thus, every dollar FEMA provides to a State must be matched by one dollar from the State. States that can contribute an amount greater than that required by the match are permitted and encouraged to do so. State assistance will, however, not exceed the established target allocation.

(g) As a condition of receiving FEMA funding, at least 15 percent of the total State assistance allocation to each State must be spent for activities under the Mitigation Planning element, and the State must dedicate at least the same amount from its match to this element.

(h) The remainder of the State match may be distributed among the eligible program elements in any manner that is mutually agreed upon by FEMA and the State in the CCA negotiations.

§ 361.4 Matching contributions.

FEMA prefers that the State match be cash, although in FY 1988 and FY 1989 in-kind matches will be acceptable. Starting in FY 1990, however, a cash match will be required. The State contribution need not be applied at the exact time of the obligation of the Federal funds. However, the State fund matching share must be obligated by the end of the project period for which the State assistance has been made available for obligation under an approved program or budget.

§ 361.5 Criteria for matching contributions.

(a) The value of any resources accepted as a matching share under one Federal agreement or program cannot be counted again as a contribution under another.

(b) The State seeking the match shall submit documentation sufficient for FEMA to determine that the contribution meets the following requirements. The match shall be:

(1) Necessary and reasonable for proper, cost-effective and efficient administration of the project, allocable solely thereto, and except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State and local governments;

(2) Verifiable from the recipient State's records;

(3) Not allocable to or included as a cost of any other Federally financed program in either the current or a prior period;

(4) Authorized under State law;

(5) Consistent with any limitations or exclusions set forth in these regulations, Federal laws or other governing limitations as to types or amounts of cost items;

(6) Accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances;

(7) Provided for in the approved budget/work plan of the State; and

(8) Consistent with OMB Circular No. A–87, Cost Principles for State and Local Governments, and with OMB Circular No. A–102, Uniform Requirements for Assistance to State and Local Governments.

§ 361.6 Documentation of matching contributions.

(a) The statement of work provided by the State to FEMA describing the specific activities comprising its earthquake hazards reduction project, including the project budget, shall reflect a level of effort commensurate with the total of the State and FEMA contributions.

(b) The basis by which the State determines the value of an in-kind match must be documented and a copy retained as part of the official record.

(c) The State shall maintain all records pertaining to matching contributions for a three (3) year period after the date of submission of the final financial report required by the CCA, or date of audit, whichever date comes first.

§ 361.7 General eligible expenditures.

(a) Expenditures must be for activities described in the statement of work mutually agreed to by FEMA and the State during the annual negotiation process, or for activities that the State agrees to perform as a result of subsequent modifications to that statement of work. These activities shall be consistent with the definition of eligible activities in § 361.2(c).

(b) The following is a list of eligible expenditures. When items do not appear on the list they will be considered on a cast-by-case basis for policy determinations, based on criteria set forth in § 361.5. All costs must be reasonable, and consistent with OMB Circular No. A–87.

(1) Direct and indirect salaries or wages (including overtime) of employees hired specifically for carrying out earthquake hazards reduction activities are eligible when engaged in the performance of eligible work.

(2) Reasonable costs for work performed by private contractors on eligible projects contracted for by the State.

(3) Travel costs and per diem costs of State employees not to exceed the actual subsistence expense basis for the permanent or temporary activity, as determined by the State's cost principles governing travel.

(4) Nonexpendable personal property, office supplies, and supplies for workshops; exhibits.

(5) Meetings and conferences, when the primary purpose is dissemination of information relating to the earthquake hazards reduction program.

(6) Training which directly benefits the conduct of earthquake hazards reduction activities.

§ 361.8 Ineligible expenditures.

(a) Expenditures for anything defined as an unallowable cost by OMB Circular No. A–87.

(b) Purchase or rental of all equipment such as radio/telephone communications equipment, warning systems, and computers and other related information processing equipment.

Dated: June 16, 1987.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 87–14877 Filed 7–2–87; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CC Docket No. 87–153; FCC 87–185]

Certain Hearing Procedures for Selection of Common Carrier Licensees

AGENCY: Federal Communications Commission (FCC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to amend § 1.822(b) of the Rules, 47 CFR 1.822(b), to authorize certain staff attorneys to preside over hearings in contested radio licensing cases where the applicant was chosen by lottery and significant questions exist concerning the qualifications of the applicant. Section 309(i)(2) of the Communications Act permits staff members to act as decision-makers and receive written testimony in such hearings. *See also* section 409(c) of the Communications Act, 47 U.S.C. 409(c); section 554(c) of the Administrative Procedure Act, 5 U.S.C. 554(c). As an alternative, we are also proposing that the Commission act as the decision maker pursuant to §§ 1.241 and 1.822(b) of the Rules, 47 CFR 1,241 and 1.822(b).

DATE: Comments must be received on or before July 27, 1987. Reply comments must be received on or before August 11, 1987.

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

FOR FURTHER INFORMATION CONTACT: Suzan B. Friedman, Mobile Services Division, Common Carrier Bureau; Tele: 202–632–6450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's notice of proposed rulemaking, adopted May 14, 1987 and released June 10, 1987.

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

By the Commission:

1. We are hereby issuing a Notice of Proposed Rulemaking to solicit comments on proposed additions and revisions to Part 1 of the Commission's Rules regarding hearing procedures to be used in cases involving common carrier applicants that were selected by lottery. Applications are designated for hearing only when the Commission determines that, after reviewing the selected application and any pleadings filed against it, that substantial and material questions of fact remain concerning the applicants qualifications. Section 1.822(b) of the rules currently provides for hearings before an Administrative Law Judge (ALJ). However, section 309(i)(2) of the Communications Act, 47 U.S.C. 309(i)(2), permits the Commission to delegate to Commission employees other than ALJs the function of presiding over the taking of written evidence in cases where the applicant was selected by lottery. We are initiating this rulemaking to seek comments on implementing this section of the Act thereby making more personnel available to preside over hearings. As an alternative, we are also proposing that the Commission preside over such "paper" hearings pursuant to §§ 1.241 and 1.822(b) of the Rules, 47 CFR 1.241 and 1.822(b).

Statutory Framework

2. Section 309(i)(2) of the Act reads in pertinent part:

(2) No license or construction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to subsection (a) and section 308(b). When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purpose of making such determinations, the Commission may, by rule, and notwithstanding any other provision of law—

(A) Adopt procedures for the submission of all or part of the evidence in written form;

(B) Delegate the function of presiding at the taking of written evidence to Commission employees other than administration law judges;[1]

For the most part, Congress in adding this subsection [2] was concerned with establishing procedures to select licenses using a random selection process rather than by hearings. As a result, there is little discussion of section 309(i)(2). The House committee report provides some insight. The report states that an applicant is entitled to a hearing only at the post-lottery stage (after petitions to deny have been filed) and that the hearing can be limited to written submissions. Furthermore, the Commission may determine:

By rule or by decision in a particular case, that due process or other public interest considerations require some or all of the hearing to be conducted by an employee or employees, including the Bureau Chiefs or their delegates, to whom the Commission shall, by rule, delegate such functions. If the Commission chooses to delegate the function of presiding over these paper hearings to employees other than Administrative Law Judges (ALJ), the Commission must assure that the examiner or reviewer is truly independent in order to avoid any undue influence in the fact-finding process. Here the Committee wishes to emphasis that use of non-ALJs to govern hearings is strictly limited to post-lottery hearings * * *.

3. The rules proposed herein are designed to conform with Congressional intent. Staff members may review only written submissions and, to ensure that presiding employees will be truly independent, the decision-making role will be kept separate from the investigative process. The practice of separating decision makers from investigators is derived from section 409(c) of the Communications Act, 47 U.S.. 409(c), and 554(d) of the Administrative Procedure Act (APA), 5 U.S.C. 554(d).

4. It is also well established that the Commission may conduct "paper hearings" in lieu of full evidentary hearings. *See Bell Telephone Co. of Pennsylvania v FCC*, 503 F. 2d 1250, 1264 (3rd cir. 1974). *cert. den.*, 422 U.S. 1026 (1975), *reh. den*, 423 U.S. 886 (1975);

[1] Subsection 309(i)(2)(C) dispenses with the requirement of subsection 309(a), which provides that the Commission must make a public interest determinaiton with respect to all applicants for a particular license. Thus, post-lottery hearings are not comparative proceedings, but determine only the qualifications of the lottery winner.

[2] The subsection was amended by the Communications Technical Amendments Act of 1982, Pub. L. 97–259, 96 Stat. 1087 (Sept. 13, 1982).

Cellular Communications Systems, 86 FCC 2d 469, 499–500 (1981) (Report and Order); *U.S. v. FCC*, 652 F.2d 72, 88–96 (D.C. Cir. 1980); sections 554 and 556 of the APA, U.S.C. 554, 556.

Hearings

5. For markets below the top 30,[3] the Commission determined that licenses will be awarded by random selection.[4] *Cellular Lottery Rulemaking*, 98 FCC 2d 175 (1984). However, the Commission reserved the authority to designate the application for an evidentiary hearing "[i]f a significant and material issue exists regarding the sincerity of a tentative selectee's commitment or ability to provide high quality cellular service as a Commission licensee or if there are other reasons to question whether the public interest would be served by a grant . . ." *Id.* at 214. The Bureau recently designated a series of cases, for hearing on the issue of who is the real party in interest. *See, Christina Communications*, DA 87–374 (released April 3, 1987). Section 1.822(b) of the rules contain the procedures to be followed in the event an application, chosen by random selection, is designated for hearing. We propose to expand this rule to provide for certain staff attorneys to preside over the hearings.

The Proposed Rules

6. We propose that certain Commission staff attorneys be delegated the authority to preside over paper hearings. Only those attorneys who are a Grade 14 or above and have a minimum of two years experience at the Commission will be eligible. We do not propose at this time to designate a separate staff for this purpose. The present case load relative to the number of staff attorneys precludes this option. Rather we propose that the presiding staff attorney be from a division or Bureau other than that which designated the application for hearing. This is to ensure that there is no commingling of investigative and decision-making responsibilities.[5]

7. The staff attorney, will have the authority to receive only written testimony. It is evident from both the language and legislative history of section 309(i)(2) that staff members are prohibited from presiding over the taking of oral testimony. A party may request oral testimony but the moving party has the burden of showing that substantial questions of fact remain which cannot be resolved by the written evidence.

8. While these proposed rule changes tend to discourage cross-examination, the proposed rules do not contain a prohibition on cross-examination. "[E]liminating cross-examination altogether could result in a deficient record, thereby undermining the validity of the selection made." *Cellular Lottery Rulemaking, supra*, at 190. Likewise, in *Cellular Communications Systems, supra* at 92, the Commission reserved the decision as to whether to permit cross-examination to the ". . . sound judicial discretion of the judge, the prevailing standard being whether the person requesting cross-examination has persuasively demonstrated that written evidence is ineffectual to develop proof." *See also, MCI Cellular Telephone Co*, 96 FCC 2d 1015 (1984), *aff'd sub nom. Cellular Mobile Systems of Pennsylvania v FCC*, 787 F. 2d 182, 196–200 (D.C. Cir. 1985) (court held that cross-examination was not an effective method of developing the record in that particular case). In these hearings, the presiding staff attorney will have the discretion to determine if the request will be granted. If the request is granted, the case must then be assigned to an ALJ for further resolution. It is apparent that referral of a case to an ALJ will delay its resolution and effectively thwart our goal of expediting the licensing process. Thus we emphasize that requests for cross-examination will not be routinely granted.

9. The staff attorney, like the ALJ, will be responsible for writing the Initial Decision. Appeals from that decision will be referred directly to the Commission.

10. We also propose, as an alternative procedure, that the Commission itself serve as the decision-maker in these paper proceedings pursuant to § 1.241 and 1.822(b) of the Rules. This proposal would expedite the hearing process by eliminating appeals to the Review Board, and then to the Commission. If this method were employed, appeals would be taken directly to court. We invite comments on both these proposals.

Conclusion

11. Accordingly, we propose that the revisions to § 1.822(b) of the rules be adopted. In the alternative, the Commission itself may preside over the paper hearings in accordance with § 1.241 and 1.822(b) of the Rules. We recognize that a number of contested applications raise issues which cannot be readily resolved by pleadings. While designating these case for hearing will take additional time, it is our intent that the proposed procedures will keep delays to a minimum. During the course of this rulemaking, ALJs will continue to preside over all hearing matters and will continue to preside over oral evidentiary hearings should the rules adopted. Our intent is to limit the role of the staff attorneys to those cases resoluble through "paper" hearings.

Regulatory Flexibility Act Initial Analysis

12. *Reason for Action.* The Commission is proposing revised hearing rules to make additional staff members available to preside over hearings.

13. *The Objective.* The objective of this notice of proposed rulemaking is to seek public comment on the proposed additions to our rules to make more decisionmaking personnel available to preside over hearings.

14. *Legal Basis.* The authority for this proposed rulemaking is contained in sections 1, 4(i), 303, and 309(i)(2) of the Communications Act, 47 U.S.C. 151, 154(i), 303, and 309(i)(2).

15. *Description, potential impact, and number of small entities affected.* This proposal could substantially reduce the cost of a hearing thereby making this procedure available to small entities.

16. *Reporting, record keeping, and compliance requirements.* None.

17. *Federal rules which overlap, duplicate or conflict with these rules.* None.

18. *Any significant alternatives, minimizing impact on small entities and consistent with stated objectives.* None.

19. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that ex parte contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until a final order disposing of the matter is adopted by the Commission,

[3] For markets 1–30, the Commission awarded licenses through a comparative hearing process.

[4] Mutually exclusive applications for permits and licenses may be chosen by random selection in the following services: Public Land Mobile Service, Domestic Public Cellular Radio Service, Multichannel Multipoint Distribution Service and Digital Electronic Message Service.

[5] We also note that the Commission's ex parte rules would apply to communications to and from the presiding staff attorney in the same manner as they currently apply to ALJs presiding over such hearings.

whichever is earlier. In general, an ex parte presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written ex parte presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral ex parte presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation on the day of oral presentation. Each ex parte presentation described above must state on its face that the Secretary has been served and must also state by docket number the proceeding to which it relates. *See* 47 CFR 1.1231. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

20. Pursuant to sections 1, 4(i), 303, and 309(i)(2) of the Communications Act of 1934, 47 U.S.C. 151, 154(i), 303, and 309(i)(2), and section 553 of the Administrative Procedure Act, 5 U.S.C. 553, there is issued a notice of proposed rulemaking.

21. The Chief, Common Carrier Bureau, is delegated authority to require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a fuller record and a more efficient proceeding.

22. The Secretary shall send a copy of the Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-14449 Filed 7-2-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 67

[CC Docket No. 80-286; FCC 87J-6]

Federal-State Joint Board; Request for Comments and Data on Allocation Procedures for Category 3, Local Switching Equipment

AGENCY: Federal Communications Commission; Federal-State Joint Board.

ACTION: Order inviting comment and request for data.

SUMMARY: The Joint Board seeks comments and data on the allocation procedures for Category 3, Local Switching Equipment, regarding the use of various relative use factors allocation methods. This action is being taken based on the Federal-State Joint Board's conclusions in its Recommended Decision and Order in Docket 80-286 that the allocation factors for category 3 should be subjected to further review.

DATES: Comments and data must be submitted on or before July 31, 1987, and reply comments on or before August 21, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michael Wilson or Tom Quaile, Audits Branch, Accounting and Audits Division, Common Carrier Bureau, (202) 632-7500.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal-State Joint Board's *Order Inviting Comment and Request for Data,* CC Docket No. 80-286, adopted June 17, 1987, and released June 26, 1987.

The full text of Joint Board orders are 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 Order Inviting Comment and Request for Data may also be purchased from their Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC. 20037.

Summary of Order Inviting Comment and Request for Data

1. On March 12, 1987, the Joint Board adopted its *Recommended Decision and Order* recommending new separations procedures for all of the Central Office Equipment categories. Those recommendations were subsequently adopted by the Commission on April 16, 1987.

2. The Joint Board recommended, and the Commission agreed, that the existing Category 6, Local Dial Switching Equipment, be consolidated with Category 4, Automatic Message Recording Equipment; Category 5, Other Toll Dial Switching Equipment; and Category 7, Special Services Switching Equipment, into a new Category 3, Local Switching Equipment. It also recommended that the existing requirement to separate the Category 6 investment between traffic sensative and non-traffic sensative be eliminated, and that the new category 3 should be separated on the basis of measured DEM (Dial Equipment Minutes), phased in over five years beginning January 1, 1988. Further, the measured DEM allocator was to be weighted for carriers with fewer than 50,000 access lines. Finally, the Joint Board recommended, and the Commission agreed, that further comment should be sought on the development of other relative use factors, including Switched Minutes of Use (SMOU), for some or all category 3 investment.

3. As a follow-through on the above recommendations, the Joint Board, in this *Order Inviting Comment and Request for Data,* seeks comment on the use of various relative use allocation methods for Category 3. The Joint Board specifically requested parties to address the propriety of the use of SMOU as an allocator for all or some Category 3 investment. It also requested that parties address the propriety of use of a DEM weighting factor as well as a weighting factor for SMOU. The Joint Board was also interested in proposals for other relative use allocation approaches, such as end office usage (EOU), and other approaches that the parties might consider desirable.

4. Further, the Joint Board requested that parties specifically define the terms used in their proposals, that they include proposed rules for the allocation of Category 3 investment, and that they submit data in support of their comments using the data request questions set forth in Appendix A to the Order. Finally, it also requested that parties proposing alternative approaches to submit supporting data in a comparable format.

5. Interested parties were invited to file comments and data on the proposed rules on or before July 31, 1987, and reply comments on or before August 21, 1987. In accordance with §§ 1.415 and 1.419 of the Commission's rules, parties must serve an original and five copies on the Secretary of the Federal Communications Commission. Parties must also serve copies on the Joint Board members and staff listed in Appendix B and on the Commission's contractor for public records duplication, International Transcription Services, Inc., 2100 M Street, NW., Suite

140, Washington, DC 20037, (202) 857–3800. Copies of the comments will be available for inspection in the Commission's Docket Reference Room, 1919 M Street, NW., Room 239, Washington, DC 20554.

Regulatory Flexibility Act

6. We certify that the Regulatory Flexibility Act [1] is not applicable to the rule changes we are proposing in this proceeding. In accordance with the provisions of Section 605 of the Act, a copy of this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration at the time of publication of a summary of this *Order Inviting Comments and Request for Data* in the **Federal Register**. As part of our analysis of the proposal described in this *Order Inviting Comments and Request for Data*, however, the Commission will consider the impact of proposals on small telephone companies, *i.e.*, those serving 50,000 or fewer lines.[2]

Paperwork Reduction Act

7. We have analyzed the proposal contained herein with respect to the Paperwork Reduction Act of 1980 [3] and have tentatively concluded that it will not, if adopted, impose new or modified information collection requirements on the public. The instant proposal is a general solicitation of comments from the public and as such, does not constitute a collection of information.[4] All comments will be considered in this proceeding. Parties need not specifically respond to the data request for their comments to be considered. Therefore, implementation of the proposed requirements will not be subject to approval by the Office of Management and Budget as prescribed by the Act.

Ex Parte Contacts

8. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments, pleadings and oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff that addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation on the day of oral presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation discussed above must state on its face that the Secretary has been served,[5] and must also state by docket number the proceeding to which it relates. A summary of these Commission procedure governing *ex parte* presentations in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, DC 20554.

9. For Joint Board actions, special *ex parte* rules apply.[6] For Joint Board actions, all written materials which are not filed in accordance with a pleading cycle established by the Joint Board shall be accompained by a Petition for Leave to File showing cause why the material should be consider by the Joint Board. The Joint Board will not consider any filing made outside the authorized pleading cycle and received by the Commission less than fifteen days [7] in advance of a Joint Board meeting at which the Joint Board is to consider the subject matter of that filing. Written *ex parte* presentations, as defined by the Commission's rules need not be accompanied by a Petition for Leave to File and may be received in the discretion of the Joint Board member or staff personnel involved. No written *ex parte* presentations, however, shall be made during the fifteen day period immediately preceding a Joint Board meeting except in response to an inquiry initiated by a member of the Joint Board or its staff.

Ordering Clauses

10. Accordingly, it is ordered, that pursuant to the provisions of Section 4(i) and (j), 201–205, 221(c), 403 and 410 of the Commission's Act of 1934, as amended, 47 U.S.C. 154(i), and (j) 201–205, 221(c), 403 and 410, comments and data Are hereby requested concerning the separations procedures discussed above.

11. It is further ordered, that interested parties may file comments and data on the issues discussed in this Order on or before July 31, 1987 and replies on or before August 21, 1987.

12. It is further ordered, that all parties filing data and comments or replies shall serve copies on the Joint Board members and Staff listed in Appendix B of the Order.

List of Subjects in 47 CFR Part 67

Communications common carrier, Jurisdictional separations, Local exchange costs, Central office equipment, Telephone

For the Federal-State Joint Board.

William J. Tricarico,

Secretary.

[FR Doc. 87–15216 Filed 7–2–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87–224, RM–5706 and RM–5888]

Radio Broadcasting Services; Perryville, MO, et al.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on conflicting petitions by (1) Chase Broadcasting of St. Louis, Inc. licensee of Station KWK–FM, Granite City, Illinois, proposing the substitution of Channel 226A for 294A at Perryville, Missouri in order to accommodate its related proposal to upgrade Station KWK–FM from a Class C2 to Class C1 facility.

(2) Lanmar Broadcasting, Inc., licensee of Station WQRL–FM, Benton, Illinois, proposing substitution of Channel 292B1

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[1] 5 U.S.C. 603.

[2] Because of the nature of local exchange and access service, this Commission concluded that small telephone companies are dominant in their fields of operation and therefore are not small entities as defined by the Regulatory Flexibility Act. *See* MTS and WATS Market Structure, 93 FCC 2d 241, 338–89 (1983). Thus, the Commission is not required by the terms of the Act to apply the formal procedures set forth herein. The Commission and this Joint Board are nevertheless committed to reducing the regulatory burdens on small telephone companies whenever possible consistent with our other public interest responsibilities. Accordingly, we have chosen to utilize, on an informal basis, appropriate Regulatory Flexibility Act procedures to analyze the effect of proposed regulations on small telephone companies.

[3] 44 U.S.C. 501.

[4] *See* 5 CFR 1320.7(k)(4).

[5] 47 CFR 1.1231.

[6] Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80–286, 89 FCC 2d 36 (1982).

[7] In calculating this fifteen day period, neither the day on which the material is filed nor the day on which the Joint Board meeting is scheduled shall be counted.

in lieu of Channel 292A at Benton and modification of the Station WQRL–FM license. Comments are elicited on the comparative benefits of increased service from the Granite City and Benton stations.

DATES: Comments must be filed on or before August 20, 1987, and reply comments on or before September 4, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners as follows: Chase Broadcasting of St. Louis, Inc., c/o Schnader, Harrison, Segal & Lewis, Suite 1000, 1111 Nineteenth Street, NW., Washington, DC 20036 and Mr. Tom Land, c/o Lanmar Broadcasting, Inc., Box 310, Fairfield, Illinois 62837.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–224, adopted June 12, 1987, and released June 29, 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 not 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. 87–15218 Filed 7–2–87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 87–213; RM–5398]

Permitting of Further Trunking in the Private Land Mobile Radio Services; Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The Commission has issued a Notice of Inquiry looking into permitting further trunking in the private land mobile radio services. This action is being taken to promote more efficient use of the spectrum.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Herb Zeiler, Land Mobile and Microwave Division, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Inquiry, PR Docket No. 87–213, adopted June 10, 1987, and released June 29, 1987. The full text of this Commission notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, 2100 M Street, NW., Washington, DC 20037, telephone (202) 857–3800.

Summary of Notice of Inquiry

1. On April 11, 1986, the Commission received a petition for Notice of Inquiry (RM–5398) from the National Association of Business and Educational Radio, Inc. (NABER). NABER asked that the Commission issue a notice of inquiry soliciting comments on the possibilities of permitting further trunking of private land mobile frequencies in the 800 MHz band.

2. The Commission agreed that the public interest would be served by examining the possibilities of permitting further trunking. Rather than limit the inquiry to the 800 MHz band as suggested in the petition, however, the Commission decided to solicit comments on expanding trunking in all private land mobile frequency bands. It was the Commission's opinion that an inquiry rather than a rulemaking was more appropriate because of a number of regulatory problems associated with expanding trunking, both operational and administrative, not previously addressed. Since the problems associated with expanding trunking depend, for the most part, on the particular regulatory structure governing the use of a particular band, the Commission divided discussion into three main categories: above 800 MHz, 470–512 MHz, and below 470 MHz, and asked specific questions in each category.

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

4. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before August 21, 1987, and reply comments on or before September 21, 1987. All relevant and timely comments will be considered by the Commission before further action is taken in this proceeding.

5. Authority for issuance of this Notice of Inquiry is contained in sections 4(i) 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 403.

List of Subjects in 47 CFR Part 90

Radio, Private land mobile radio.

Federal Communication Commission

William J. Tricarico,

Secretary.

[FR Doc. 87–15215 Filed 7–2–87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Daphnopsis hellerana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Daphnopsis hellerana* to be an endangered species. Critical habitat is not proposed. *Daphnopsis hellerana* is a small tree or large shrub endemic to evergreen and semievergreen seasonal forests on limestone hills of the karst region of northern Pureto Rico. The species has been seriously impacted by agriculture, urbanization and limestone quarrying. This proposal, if made final, would implement for *Daphnopsis hellerana* the Federal protection and recovery provisions afforded by the Endangered Species Act of 1973, as amended. The Servie seeks data and

comments from the public on this proposal.

DATES: Comments from all interested parties must be received by September 4, 1987. Public hearing requests must be received by August 20, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622. Comments and materials received will be available for public inspection, by appointment, at this office during normal business hours, and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street, SW, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Mr. David Densmore at the Caribbean Field Office address (809/851–7297) or Mr. Richard P. Ingram at the Atlanta Regional Office address (404/331–3583 or FTS 242–3583).

SUPPLEMENTARY INFORMATION:

Background

Daphnopsis hellerana was first discovered and collected by Amos Arthur Heller in 1900 on a limestone hill near Bayamon, Puerto Rico. The species was not seen again until 1958, when Roy O. Woodbury found it in Toa Baja, near the type locality (Nevling and Woodbury 1966). Since 1958, three other populations have been located in the karst region of Puerto Rico, two in the Toa Baja/Dorado area, and the third near Isabela in northwestern Puerto Rico (Vivaldi andWoodbury 1981). The Isabela population and the plants rediscovered by Woodbury have since been destroyed, leaving two small populations of seven trees each in Toa Baja and Dorado. The Toa Baja population is on Federal land under the jurisdiction of the National Institutes of Health (Department of Health and Human Services) and leased to the University of Puerto Rico School of Medicine. The Dorado population is on Commonwealth public land. These 14 individuals are the only plants of this species known to exist.

Daphnopsis hellerana is an evergreen shrub or small tree reaching 20 feet (6 meters) in height, with a stem diameter of 2 inches (5 centimeters). The leaves are simple, alternate, elliptic to obovate in shape, and blunt or rounded at the apex. Both leaves and twigs are golden hairy when young. Male and female flowers are borne on separate plants (dioecious), and are terminally clustered. The male flowers are small, tubular, and finely hairy; the female flowers are smaller, less than one fourth inch (one half centimerter) long, bell-shaped, and also finely hairy. The fruit is an elliptic, one-seeded white berry, less than three fourths of an inch (2 centimeters) long. The species is endemic to low elevation evergreen and semievergreen forests (subtropical moist forests) on limestone hills in the karst region of northern Puerto Rico.

Nearly all of the known populations of *Daphnopsis hellerana* have been located near Puerto Rico's principal population center (the San Juan/Bayamon area). As a result, urban and industrial expansion have eliminated known and potential habitat. In particular, construction of dwellings and roads, limestone quarrying for this construction, landfills, and clearing by yam planters have together reduced the species to its present low numbers. In addition, the extreme rarity of the species and its dioecious habit lower the probability of successful seed production and dispersal.

Daphnopsis hellerana was recommended for Federal listing by the Smithsonian Institution (Ayensu and DeFilipps 1978). The species was included among the plants being considered as endangered or threatened species by the Fish and Wildlife Service, as published in the **Federal Register** (45 FR 82479) dated December 15, 1980. The species was designated category 1 (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened), and was retained in category 1 in the November 28, 1983, update (48 FR 53640) of the 1980 notice, and the September 27, 1985, revised notice (50 FR 39526).

In a notice published in the **Federal Register** on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the Smithsonian's 1978 book as under petition within the context of section 4(b)(3)(A) of the Act, as amended in 1982. The Service subsequently found in October of 1983, 1984, and 1985, that listing *Daphnopsis hellerana* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. This proposed rule indicates that the petitioned action is warranted, and constitutes a final required finding in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their applications to *Daphnopsis hellerana* Urban (no common name) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Modification of habitat and direct destruction of plants have been significant factors reducing the numbers of *Daphnopsis hellerana*. Deforestation for construction and yam cultivation, the leveling of limestone hills for construction material, and random cutting have all contributed to the species' decline. The Commonwealth (Autoridad de Tierra) land is not in any protective status, and may be subject to construction of roads and powerlines and to quarrying for construction material. The population on Federal land is not recognized or protected by any existing management plan.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Taking for these purposes has not been a documented factor in the decline of this species. However, any take by curiosity seekers could be extremely detrimental.

C. *Disease or predation.* Disease and predation have not been documented as factors in the decline of this species.

D. *The inadequacy of existing regulatory mechanisms.* The Commonwealth of Puerto Rico has recently adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Daphnopsis hellerana* is not yet on the Commonwealth list. Federal listing would provide interim protection and, if the species is ultimately placed on the Commonwealth list, enhance its protection and possibilities for funding needed research.

E. *Other natural or manmade factors affecting its continued existence.* Since *Daphnopsis hellerana* is dioecious, and only two populations of seven plants each are known to exist, rarity and the resulting effects on reproduction and genetic diversity are factors that could eventually lead to the species' extinction. Seedlings have been observed in the past, but there is no evidence at any site that they survived to maturity. Furthermore, there has been a steady decline in the number of mature plants at sites that have otherwise remained undisturbed. These observations suggest that recruitment is not adequate to sustain the remaining populations. There is also no evidence of vegetative reproduction by

Daphnopsis hellerana, and thus the species' continued existence may depend upon reproduction from seed and maintenance of a minimum population size.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Daphnopsis hellerana* as endangered. Since there are so few individuals remaining and a continuing risk of damage to the plants and/or their habitat, endangered status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. The number of individuals of *Daphnopsis hellerana* is sufficiently small that collecting or vandalism could seriously affect the survival of the species. Publication of critical habitat descriptions and maps in the **Federal Register** would increase the likelihood of such activities. The Service believes that Federal involvement in the areas where this plant occurs could be identified without the designation of critical habitat. All involved parties and landowners would be notified of the location and importance of protecting this species' habitat. Protection of this species' habitat would also be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not be prudent to determine critical habitat for *Daphnopsis hellerana* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for *Daphnopsis hellerana*, as discussed above. Federal involvement is expected only if there is a change in the present status of National Institutes of Health lands in the Toa Baja area.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits for *Daphnopsis hellerana* will ever be sought or issued since the species is not known to be in cultivation and is uncommon in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Daphnopsis hellerana;*

(2) The location of any additional populations of *Daphnopsis hellerana,,* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject areas and their possible impacts on *Daphnopsis hellerana*.

Final promulgation of the regulation on *Daphnopsis hellerana* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such request must be made in writing and addressed to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of 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 Cited

Ayensu, E.S., and R.A. DeFilipps. 1978.

Endangered and Threatened Plants of the United States. Smithsonian Institution and World Wildlife Fund, Washington, D.C. xv + 403 pp.

Nevling, L.I., and R.O. Woodbury. 1966. Rediscovery of *Daphnopsis hellerana*. J. Arnold Arbor. 47:262–265.

Vivaldi, J.L., and R.O. Woodbury. 1981. Status report on *Daphnopsis hellerana* Urban. Unpublished status report submitted to the U.S. Fish and Wildlife Service, Atlanta, Georgia. 56 pp.

Author

The primary author of this proposed rule is Mr. David Densmore, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851–7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, 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. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Thymelaeaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
* *	*	*	*	*		*
Thymelaeaceae—Mezereum family: *Daphnopsis hellerana*.	none	U.S.A. (PR)	E		NA	NA
* *	*	*	*	*		*

Dated: June 18, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–15179 Filed 7–2–87; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal to Determine Endangered Status for Arenaria cumberlandensis

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine endangered status for *Arenaria cumberlandensis* (Cumberland sandwort). This small plant is known from only five sites, one in Kentucky and four in Tennessee. The species is endangered by timber harvesting, trampling by recreational users of its unique habitat, and destruction of its habitat by collectors of Indian artifacts. This proposal, if made final, would extend the protection of the Endangered Species Act of 1973, as amended, to *A. cumberlandensis*. The Service seeks data and comments from the public.

DATES: Comments must be received by September 4, 1987. Public hearing requests must be received by August 20, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Endangered Species Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Currie at the above address (704/259–0321 or FTS 672–0321).

SUPPLEMENTARY INFORMATION:

Background

The plant *Arenaria cumberlandensis* (Cumberland sandwort) was described as a new species by Wofford and Kral (1979). This perennial, herbaceous member of the pink family (Caryophyllaceae) is 4 to 6 inches (10 to 15 centimeters) tall, and has small, white-petaled flowers and relatively long, narrow leaves. It is distinguished from a related species, *Arenaria glabra*, by the presence, at flowering, of basal rosettes of leaves and by its wider and thicker leaves. Additionally, *A. cumberlandensis* flowers in late June and early July, while *A. glabra* flowers in late April and early May (Wofford and Smith 1980).

Arenaria cumberlandensis is known only from a limited portion of the Cumberland Plateau in north-central Tennessee and adjacent Kentucky. It is restricted to shady, moist rockhouse floors, overhanging ledges, and solution pockets in sandstone rock faces. Rockhouses were defined by Wofford (1976) as "cave-like overhangs resulting from differential weathering of sandstone." This species occurs where the correct combination of shade, high moisture, cool temperatures, and high humidity provides appropriate habitat conditions. These habitat requirements are in sharp contrast to those of other members of the genus in the southeastern United States, which are typically found in hot, dry areas in full sun (Wofford and Kral 1979, Wofford and Smith 1980). The five currently known populations of *A. cumberlandensis*, one in Kentucky and four in Tennessee, are described below.

1. *McCreary County, Kentucky.*—According to Marc Evans (Kentucky Nature Preserves Commission, personal communication, February 21, 1986), this small population is less than ½ mile from the Tennessee State line. It was discovered by Mr. Max Medley during a thorough search of the area for rare plants. The area is managed by the Daniel Boone National Forest. Threats to the site include habitat destruction by hunters of Indian artifacts, hikers, campers, and other recreational users of the area. Timber removel in or adjacent to the habitat supporting *A. cumberlandensis* would also have significant adverse impacts, by eliminating the shade, high moisture and humidity, and cool temperatures that the species needs. At the present time no timber harvests are planned near this site (Brian Knowles, Daniel Boone National Forest, personal communication, 1986).

2. *Fentress and Morgan Counties, Tennessee.*—The small population here is located on privately owned land on the east and west sides of the Clear Fork River. The river forms a part of the boundary between Fentress and Morgan Counties. The Fentress County portion of the population is under stress because it occurs in an area that is much drier than the habitat in which *A. cumberlandensis* is characteristically found. This was the driest site observed by Wofford and Smith (1980) during

their status survey of the species. Part of the population is potentially threatened through trampling by hikers and campers, while all of it is vulnerable to adverse habitat modification by timber harvesting.

3. *Pickett County, Tennessee.*—This site, located within Pickett State Park and Forest, is owned by the State of Tennessee and is managed by the Tennessee Department of Conservation, Division of Forestry. The area supports the largest population of *A. cumberlandensis*, as well as several excellent examples of the unique rockhouse flora known only from the Cumberland Plateau. Existing threats to the species at this site include hiking, camping, picnicking, rappelling, and other recreational use of the area. A potential threat is any timber removal not giving primary consideration to the conservation of *A. cumberlandensis* (Tennessee) Department of Conservation 1979, Wofford and Smith 1980).

4. *Fentress County, Tennessee.*—The very small population here contains fewer than six clumps of plants and is located within the watershed of a municipal water supply reservoir. At the present time the only known threat is this population's small size and its consequent vulnerability to extripation by natural popluation fluctuations (Wofford and Smith 1980).

5. *Scott County, Tennessee.*—This small population is within the boundaries of the Big South Fork National River and Recreation Area and is managed by the National Park Service. The population is small, consisting of approximately 50 clumps. The site has been severly impacted through trampling by recreational visitors to the area, by collectors of Indian artifacts, and by trash dumping (Wofford and Smith 1980). The National Park Service has now been made aware of the presence of *A. cumberlandensis*, has indicated strong support for listing, and has stated that it will take measures to protect the species.

The Service funded a status survey of *A. cumberlandensis* in 1979 and received the final report in October 1980. Based on this report, the species was included in category 1 of a comprehensive plant notice of review in the Federal Register of December 15, 1980 (45 FR 82480), and in an updated notice in the Federal Register of September 27, 1985 (50 FR 39526). Category 1 comprises those species for which the Service has current information supporting proposed endangered or threatened status.

All plants covered by the comprehensive plant notices, such as *A. cumberlandensis*, are treated as being under petition. Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended in 1982, requires certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. On October 13, 1983, October 12, 1984, and October 11, 1985, the Service found that the petitioned listing of *A. cumberlandensis* was warranted but precluded by other listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. These other listing measures now have been dealt with, and all necessary information has been assembled. Another finding was due by October 11, 1986, and that finding, to the effect that the petitioned listing of *A. cumberlandensis* is warranted, is incorporated in this proposed rule.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Arenaria cumberlandensis* Wofford and Kral (Cumberland sandwort) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range

A. cumberlandensis is endangered directly and indirectly by human activities in and adjacent to its unique habitat. The species is found on the sandy floors of rockhouses, in solution pockets on the face of sandstone cliffs, and on ledges beneath overhanging sandstone. Significant threats to the plants growing on the rockhouse floors include trampling by hikers, campers, picknickers, individuals rappelling down the sandstone cliffs, and "pot hunters" digging within the rockhouses for American Indian artifacts. The plants growing on ledges and in solution pockets on the cliff faces are vulnerable to trampling by those rappelling down the cliffs. All populations are potentially threatened by timber removal in or adjacent to the sites supporting the species. Increased sunlight on the plants and subsequent alteration of the moisture conditions would probably lead to extirpation of *A. cumberlandensis* from the timbered area.

B. Overutilization for commercial, recreational, scientific, or educational purposes

A. cumberlandensis is not currently a component of the commercial trade in native plants. Its small size and restrictive habitat requirements should limit future demands resulting from increased publicity of the species to a few wild flower enthusiasts specializing in rare species. However, several of the known populations are very small and could be significantly damaged or extirpated by scientific collecting. The adverse impacts of some recreational activities have been addressed above.

C. Disease or predation

Not known to be a problem.

D. The inadequacy of existing regulatory mechanisms

A. cumberlandensis is listed as an endangered species on Tennessee's unofficial list of endangered, threatened, and rare plant species. The recently enacted Tennessee Rare Plant Protection and Conservation Act will prohibit taking without the permission of the landowner and will require that any commercial activity involving the species be authorized by permit. The species will be listed as an endangered species on the unofficial list of endangered, threatened, and rare species currently being revised by a review committee of the Kentucky Academy of Science. No protection is afforded the species by inclusion on this unofficial list. Existing regulatory mechanisms and unofficial recognition given to the species do not provide protection from habitat alteration and destruction, which are the primary threats to the continued existence of *A. cumberlandensis*.

E. Other natural or manmade factors affecting its continued existence.

A. cumberlandensis is an extremely rare species found only in a small part of the Cumberland Plateau. In some populations, loss of even a few individuals through natural fluctuations in numbers or human-induced habitat alterations could eliminate the populations and thereby appreciably reduce the likelihood that the species will continue to exist.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this

rule. Based on this evaluation, the preferred action is to list *A. cumberlandensis* as an endangered species. Endangered status seems appropriate because of the severity of problems facing the species throughout its range. Critical habitat is not being designated for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires designation, to the maximum extent prudent and determinable, of any habitat of a species that is considered to be critical habitat, at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *A. cumberlandensis* at this time. Most populations of this species are very small, and loss of even a few individuals, to activities such as collection for scientific purposes, could extirpate the species from some of the sites where it is found. Collecting, without permits, would be prohibited at the two sites under Federal management; however, collecting restrictions would be difficult to enforce at these sites and would not be applicable, under the Act, to the other sites, which are not federally owned. Therefore, publication of critical habitat descriptions and maps would increase the vulnerability of the species, without significantly increasing protection. The owners and managers of all the known populations of *A. cumberlandensis* are aware of the plant's location and of the importance of protecting the plant and its habitat. No additional benefits would result from a determination of critical habitat.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Three of the five known populations of *A. cumberlandensis* are on private, municipal, or State-owned land. One small population is located on land managed by the National Park Service, while another is on land managed by the U.S. Forest Service. There are no current or planned Federal activities that are anticipated to adversely impact this species. The Forest Service has been contacted and has agreed not to allow logging in the area occupied by *A. cumberlandensis*. The Park Service has indicated it will take measures to protect the species.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. it is anticipated that few trade permits would ever be sought or issued for *A. cumberlandensis*, since it is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, 6th Floor, Broyhill Building, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *A. cumberlandensis;*

(2) The location of any additional populations of this species and the reaons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on *A. cumberlandensis* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Endangered Species Field Office (see "ADDRESSES" section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of 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 Services's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

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Author

The primary author of this proposed rule is Mr. Robert R. Currie, Endangered Species Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801, (704) 59–0321 or FTS 672–032.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, 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. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Caryophyllaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*		
Caryophyllaceae—Pink family:						
Arenaria cumberlandensis	Cumberland sandwort	U.S.A. (KY, TN)	E		NA	NA
*	*	*	*	*		

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Dated: June 19, 1987.

[FR Doc. 87–15183 Filed 7–2–87; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Determination of Endangered Status for Two Long-nosed Bats

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine endangered status for the Mexican long-nosed bat (*Leptonycteris nivalis*) and Sanborn's long-nosed bat (*L. sanborni*), which are found in the southwestern U.S. Mexico, and Central America. They depend largely on caves for roosting and on the flowers of agaves and cacti for food. Both species evidently have declined in recent years, and remaining populations are jeopardized by disturbance of roosting sites, loss of food sources, and direct killing by humans. Only one major roosting colony of each species is known to exist in the U.S. This proposal, if made final, would extend the protection of the Endangered Species Act of 1973, as amended, to these animals. The Service seeks data and comments from the public.

DATES: Comments must be received by September 4, 1987. Public hearing requests must be received by August 20, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Service's Regional Office of Endangered Species, 500 Gold Avenue, SW., Room 4000, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Alisa M. Shull, Endangered Species Biologist (505/766–3972 or FTS 474–3972), at the above address.

SUPPLEMENTARY INFORMATION:

Background

The genus *Leptonycteris* differs strikingly from most other bats that occur in the United States, in having an elongated muzzle with a small nose leaf at the tip. Its long tongue, an adaptation for feeding, measures up to 3 inches (76 millimeters). Head and body length is 2¾ to 3¾ inches (70 to 90 millimeters), the tail is very small, and weight is ½ to 1 ounce (18 to 30 grams). Coloration is usually yellowish brown or grayish above and cinnamon brown below (Wilson 1985a, 1985b).

Leptonycteris contains three species, of which one (*L. curasoae*) is known only from the northern coast of South America and some adjacent islands (Nowak and Paradiso 1983). The other two species, which occur in the southwestern U.S., Mexico, and Central America, are *L. nivalis* (Saussure), the Mexican or "big" long-nosed bat, and *L. sanborni* Hoffmeister, Sanborn's or "little" long-nosed bat. These bats have a rather confusing nomenclatural history, and *L. sanborni* is sometimes called *L. yerbabuenae*. Although there is general agreement that *L. nivalis* and *L. sanborni* are distinct species, and while the two can be separated by cranial and dental characters, they are sometimes difficult to distinguish in the field (there is actually little size difference). The most useful external identification characters are the shorter, denser pelage of *L. sanborni*, and the longer, finer hair extending above and beyond the tail membrane of *L. nivalis* (Wilson 1985a, 1985b).

These bats are adapted for life in arid country, and are found mainly in desert scrub habitat in the U.S. parts of their range. Farther south, they sometimes occur at high elevations on wooded mountains. For day roosting sites, they depend almost entirely on caves and abandoned mines and tunnels. Populations in the U.S. and northern Mexico apparently migrate southward in the fall and return in the spring, with groups occupying the same caves, year after year. Thousands of individuals may roost together at a single site, though large aggregations now seem much rarer than in the past (Wilson 1985a, 1985b).

The bats emerge at night to feed on nectar and pollen, especially of the flowers of paniculate agaves (century plants) and large cacti. An intimate mutual relationship seems to be involved, with the bats depending on the plants for food, and the plants requiring

the bats as pollinators. In recent decades, human exploitation of agaves may have contributed substantially to a drastic reduction in populations of *Leptonycteris*, which in turn caused a serious decline in the reproductive rate of certain agaves (Howell 1974, 1976, pers. comm.; Howell and Roth 1981). Fruit, particularly soft and juicy kinds, is also eaten by these bats, especially in the southern parts of their range (Wilson, pers. comm.)

In its Review of Vertebrate Wildlife in the **Federal Register** of December 30, 1982 (47 FR 58454–58460), the Service included *L. nivalis* in category 2, meaning that information then available indicated that a proposal to determine endangered or threatened status was possibly appropriate, but was not yet sufficiently substantial to biologically support such a proposal. In a revised Review of Vertebrate Wildlife in the **Federal Register** of September 18, 1985 (50 FR 37958–37967), both *L. nivalis* and *L. sanborni* were placed in category 2. Shortly thereafter, the Service received completed reports (Wilson 1985a, 1985b) of status surveys, which it had initially funded in 1983. These reports, and other information provided to the Service, indicate that the two long-nosed bats have declined, that their remaining populations are jeopardized by several factors, and that they now warrant addition to the List of Endangered and Threatened Wildlife.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act of 1983, as amended (16 U.S.C. 1531 *et seq.*), and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act, set forth the procedures for adding species to the Federal Lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors, and their application to the Mexican long-nosed bat (*Leptonycteris nivalis*) and Sanborn's long-nosed bat (*L. sanborni*), are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range

The species *L. nivalis* originally occurred from southwestern Texas and perhaps southwestern New Mexico, through much of Mexico, to Guatemala. The reported presence in New Mexico is based solely on two specimens collected in 1963 and 1967 in Hidalgo County. The only roosting site in the U.S., currently known to be in use, is a cave in Big Bend National Park, Texas. The population there was estimated at 10,650 individuals in 1967 and about 1,000 in 1983. *L. nivalis* still occurs in Mexico, but there is evidence of a severe decline. The recent Service-funded survey covered nearly all sites in that country, where the species had been reported in the past, and located live individuals at 15 localities, but only in relatively small numbers. An abandoned mine in Nuevo Leon, which had an estimated population of 10,000 *L. nivalis* in 1938, had no sign of the species in 1983. Another mine in that State, which had a ceiling covered with newborn young in 1967, contained only a single bat in 1983. A cave in Morelos, which supported large numbers in the 1950's and 1960's, had only 30–50 individuals in 1984, and that was about the largest group found in Mexico (Wilson 1985a). Reported occurrance in Guatemala is based entirely on two specimens collected over 100 years ago (Jones 1966).

The species *L. sanborni* originally occurred from central Arizona and southwestern New Mexico, through much of Mexico, to El Salvador (Hall 1981). It evidently was once more common in the U.S. than was *L. nivalis* but a deterioration in status was noted some years ago. Hayward and Cockrum (1971) reported that population of many colonies in Arizona and northwestern Mexico had greatly declined and some had completely disappeared. A 1974 survey of all localities in the U.S., from which the species had been reported, found only 135 individuals (Howell and Roth 1981). Until the 1950's a single roosting colony, at Colossal Cave in Pima County, Arizona, contained as many as 20,000 *L. sanborni*, but that colony has now vanished. The recent Service-funded survey covered every previously known site of occurrence in the U.S., but found the species only in one place, a cave on private property in Santa Cruz County, Arizona, that held about 500 individuals. However, based on reported sightings of bats visiting artificial hummingbird feeders, two additional populations of *L. sanborni* are thought to survive in or near Cochise County, Arizona, one containing perhaps 300 individuals. The Service-funded survey also covered nearly all sites in Mexico, from which *L. sanborni* had been reported. Live individuals were found in only three places, and very few in two of those. The third site, a cave on the coast of Jalisco, may have supported 15,000 *L. sanborni* (Wilson 1985b). To the south of Mexico, the species is known only by a single specimen, collected in El Salvador in 1972 (Jones and Bleier 1974).

The reasons for the evident decline of the two long-nosed bats are not entirely clear, but are probably associated, at least in part, with habitat disruption. The two most important aspects of the bats' habitat involve roosting sites and food sources. There is only a limited number of caves and mines that provide a proper roosting environment. While there are no precisely documented cases of roosts being made unusable, such sites are becoming increasingly subject to human destruction and disturbance, particularly in Mexico. The currently known U.S. roosts are thought to be well protected, but since there is only one for each species, the loss of either would be devastating (Wilson 1985a, 1985b). These bats are easily disturbed and readily take flight when approached (Wilson *et al.* 1985).

As mentioned above, the long-nosed bats feed to a considerable extent on nectar and pollen of the flowers of agaves and cacti, especially in that portion of their ranges in the United States and northern Mexico. Their muzzles and tongues, both in length and surface structure, are highly adapted for deep insertion into flowers and collection of pollen particles (Greenbaum and Phillips 1974, Howell and Hodgkin 1976). Paniculate agaves (century plants), which produce showy, easily accessible, night-blooming flowers, the pollen of which is rich in protein, seem to be especially important to the bats. The annual migrations of the bats are associated to some degree with the times that agaves are flowering in various areas. For example, the June arrival of *L. nivalis* in Big Bend National Park, Texas, coincides with the onset there of flowering by agaves (Wilson 1985a). Unfortunately, the survival of many species and varieties of agaves is in doubt, especially in Mexico, because of human exploitation (for food, fiber, and alcoholic beverages), the spread of agriculture, wood cutting, and livestock grazing (Reichenbacher 1985).

Considerable evidence exists for the interdependence of *Leptonycteris* and certain agaves and cacti (a phenomenon known as chiropterophily) and for the simultaneous decline of the bats and agaves (Howell 1974, 1976, pers. comm.; Howell and Roth 1981). In location, structure, odor, and time of blooming, the flowers of the plants facilitate utilization by the bats. And in morphology and physiology of their noses, tongues, and dentition, the bats are adapted for feeding on the plants. When a bat visits a flower, it not only laps up some of the nectar and pollen on the spot, but picks up a considerable amount of pollen on its fur for later

consumption. Some of this material is transferred to the next flower visited by the bat, and hence the plant is pollinated and reproduction can occur. *Leptonycteris* is thought to be the most important pollinator of some paniculate agaves and of the giant saguaro and organ pipe cacti. When the bats move northward in the late spring and summer, they are largely dependent on these plants. At the time they turn back south, and are concentrated in northern Mexico, the only blooming plants available to them are agaves. These agaves, however, are being intensively harvested by "moonshiners" for production of tequila.

Excess harvest, and other factors resulting in elimination of agaves, may have contributed substantially to the drastic decline in long-nosed bat populations. In turn, the drop in bat numbers over the past several decades has coincided with a decline in the reproductive rate of agaves. For example, herbarium specimens of the species *Agave palmeri* from the Rincon Mountains of Arizona indicate pollination success of 80–100 percent in 1938–1941, when the area supported the huge Colossal Cave colony of *L. sanborni*. In 1976, after this colony had practically disappeared, the fecundity of *A. palmeri* was 0–10 percent. Other agaves, as well as the saguaro and organ pipe cacti, may also be affected, and there is concern for the future of entire Southwest desert ecosystems.

B. Overutilization for commercial, recreational, scientific or educational purposes

Leptonycteris is not known to be taken for commercial purposes, and scientific collecting is not thought to be a problem. However, these bats are killed for fun by vandals. In Mexico, the general public often considers all bats to be vampire bats (which sometimes spread disease to people and livestock), and thus there are destructive control operations that kill all bats in a cave (Wilson 1985a, 1985b).

C. Disease or predation

Bats are susceptible to various diseases, though none are now known to be seriously affecting populations of *Leptonycteris*. However, if human agency reduces a species to only a few colonies, the vulnerability of that species to natural problems is increased.

D. The inadequacy of existing regulatory mechanisms

In Mexico, there are no regulations protecting bats, other than restrictions on scientific collecting, and thus *Leptonycteris* is killed along with other kinds of bats in the course of control operations (Wilson 1985a, 1985b).

E. Other natural or manmade factors affecting its continued existence

During the recent Service-funded status survey, investigation of a cave in Guerrero, Mexico, revealed the skeletal remains of numerous *L. nivalis*, but no live members of that species. A cave in Sonora contained a recently dead *L. sanborni*, but no live individuals. In contrast, both caves were inhabited by several other kinds of bats, some of them in large numbers. These situations suggest the existence of some unknown agent that is causing a specific die-off of the long-nosed bats (Wilson 1985a, 1985b).

The decision to propose endangered status for the Mexican and Sanborn's long-nosed bats was based on an assessment of the best available scientific information and of past, present, and probable future problems for the species. A decision to take no action would constitute failure to properly classify these bats pursuant to the Endangered Species Act and would exclude them from protection provided by the Act. A decision to propose only threatened status would not adequately reflect the evident drastic decline of these species, the near or total disappearance of most of their known large colonies, and the apparent environmental problems that may lead to further deterioration of their status and that of the ecosystems on which they depend. For the reasons given below, a critical habitat designation is not included in this proposal.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires that "critical habitat" be designated "to the maximum extent prudent and determinable," concurrent with the determination that a species is endangered or threatened. The Service finds that designation of critical habitat for the Mexican and Sanborn's long-nosed bats is not prudent at this time. As noted in factors "A" and "B" in the above "Summary of Factors Affecting the Species," both species are easily disturbed, subject to killing by vandals, and reduced to only a single known roosting colony in the United States, the loss of which would be disastrous. Publication of precise descriptions and maps of locations of these colonies, such as would be involved in a critical habitat determination, could increase the vulnerability of the sites to vandals and could lead to disturbance by well-meaning tourists. The survival of the bats could thus be placed in further jeopardy. The designation of critical habitat is not applicable to species in areas outside of U.S. jurisdiction.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. With respect to the listing of the Mexican and Sanborn's long-nosed bats, there would be no known substantial effects on Federal activities within the United States. An opinion of August 31, 1981, from the Office of the Solicitor, U.S. Department of the Interior, indicates that the jeopardy prohibition of section 7(a)(2) does not apply in foreign countries.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

Section 9 of the Act, and implementing regulations found at 50 CFR 17.21, set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments and suggestions regarding any aspect of this proposal are hereby solicited from the public, concerned governmental agencies, the scientific community, industry, and other interested parties. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the two subject species;

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the distribution of these species; and

(4) Current or planned activities in the involved area and their possible impacts on the subject species.

Final promulgation of the regulations on these species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of final regulations that differ from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director (see ADDRESSES).

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of 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** of October 25, 1983 (48 FR 49244).

References Cited

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Wilson, D.E., D.V. Lanning, and R.A. Medellin. 1985. Bats from northeastern Mexico, with a checklist of species. U.S. Fish and Wildl. Serv., Museum Section, Washington, D.C., 30 pp.

Authors

The primary author of this proposed rule is Alisa M. Shull, Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, New Mexico 87103 (505/766–3972 or FTS 474–3972).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, 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. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "MAMMALS," to the list of Endangered and Threatened Wildlife:

§ 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						
MAMMALS							
Bat, Mexican long-nosed	*Leptonycteris Nivalis*	U.S.A. (NM, TX), Mexico, Central America.	Entire	E		NA	NA
Bat, Sanborn's long-nosed	*Leptonycteris sanborni* (=*L. Yerbabuenae*).	U.S.A. (AZ, NM), Mexico, Central America.	Entire	E		NA	NA

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

Dated: June 18, 1987.

[FR Doc. 87-15184 Filed 7-2-87; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Echinocereus reichenbachii var. chisoensis

AGENCY: Fish and Wildlife, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine threatened status for a plant, *Echinocereus reichenbachii* var. *chisoensis* (Chisos Mountain hedgehog cactus). The only known locality for this species is Big Bend National Park, Texas, where an estimated 1,000 individuals occur. Because of its low numbers and limited distribution, this plant is vulnerabnle to taking and to habitat disruption from road improvements and trail construction. Habitat degradation from former grazing, climatic changes, or other undermined factors may be causing a decline in recruitment. A final determiantion that this plant is threatened will implement the protection provided by the Endangered Species Act of 1973, as amended. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by September 4, 1987. Public hearing requests must be received by August 20, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Service's Regional Office of Endangered Species, 500 Gold Avenue SW., Room 4000, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Sue Rutman, Botanist, Endangered Species Office, Albuquerque, New Mexico (see **ADDRESSES** above) (505/766-3972 or FTS 474-3872).

SUPPLEMENTARY INFORMATION:

Background

Echinocereus reichenbachii var. *chisoensis* (Chisos Mountain hedgehog cactus) is a Chiuhahuan Desert plant endemic to Big Bend National Park, Brewster County, Texas. It was first collected in April 1939, by F. Radley near the Chisos Mountains in Big Bend National Park. Marshall (1940) formally named it *Echinocereus chisoensis* in honor of the type locality. Benson (1969) assigned this taxon to the varietal level, revising the name to *E. reichenbachii* var. *chisosensis*. The varietal name is spelled *chisoensis* in this proposal to conform with the spelling in the original publication.

The plant occurs on alluvial flats near the Chisos Mountains at elevations of 1,950-2,370 feet (595-720 meters). Vegetation is very sparse, with total plant cover in some places estimated at only 20-30 percent (Heil and Anderson 1982). Commonly associated plants are *Larrea tridentata* (creosote bush), *Agave lecheguilla* (lechuguilla), and *Opuntia schottii* (dog cholla). *E. r.* var. *chisoensis* frequently grows on bare soil within spreading clumps of *Opuntia schottii*, and is also found in the shade of other associated plants.

The total number of individuals of *E. r.* var. *chisoensis* has been estimated at 1,000. These plants occur in an area approximately 3.1 by 10.6 miles (5 by 17 kilometers), but do not occupy all potential habitat. *E. r.* var. *chisoensis* has not been found in the bordering States of Chihuahua and Coahuila, Mexico (Heil *et al.* 1985).

This cactus can be identified by the deep green or bluish green stems, 3-6 inches (7.5-15 centimeters) tall, with 12-14 radial and 1-4 central spines per areole. This variety can be distinguished from other varieties of the same species by the length of the central spines and the whiteness of the spine mass. During the flowering season of March to early June, the plants are conspicuous due to the showy tri-colored flowers and the white wool and slender spines of the floral tube (Benson 1982). Flower petals are red at the base, white at mid-length, and fuschia at the tips. Fruits are green with a red tinge, are fleshy, and have long white wool in the areoles (Evans 1986). Fruits mature from May to August and contain 200-250 seeds (Heil *et al.* 1985).

The population biology and ecology of this species are poorly understood. Some authorities have proposed that plant recruitment is limited by poor seedling establishment (E. Leuck, Centenary College of Louisiana, pers. comm. 1986; Heil and Anderson 1982). Leuck and Ross (both *in* Heil and Anderson 1982) have suggested that short grass cover is the preferred site for seedling establishment and that grass cover was probably substantially reduced by overgrazing during the period from World War I through World War II. Other authorities have suggested that long and short term climatic shifts have caused drier conditions, which may be contributing to a population decline (A. Zimmerman, Chihuahuan Desert Research Institute, pers. comm. 1986; D.B. Evans, Big Bend National Park, pers. comm. 1986). Plant recruitment may also be limited by other undetermined factors.

Echinocereus reichenbachii var. *chisoensis*, was among those species covered by a report on endangered, threatened, and extinct plants, which was prepared by the Secretary of the Smithsonian Institution in accordance with section 12 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*). This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. In the **Federal Register** of July 1, 1975 (40 FR 27823-27924), the Service issued a notice of its acceptance of this report as a petition within the context of section 4(c)(2) of the Act (petition acceptance provisions are now contained in section 4(b)(3)(A) of the Act, as amended), and of its intention to review the status of the plant taxa named therein. In the **Federal Register** of June 16, 1976 (41 FR 24523-24572), the Service issued a

proposed rule to determine endangered status for approximatley 1,700 vascular plant species. *E.r.* var. *chisoensis* was included in the Smithsonian report, the notice of July 1, 1975, and the proposal of June 16, 1976. General comments received on the proposal were summarized in the Federal Rgister of April 26, 1978 (43 FR 17909–17916).

The Endangered Species Act Amendments of 1978 required the withdrawal of all proposed rules over 2 years old, though a 1-year grace period was allowed to proposals then already over 2 years old. Accordingly, in the Federal Register of December 10, 1979 (44 FR 70796–70797), the Service issued a notice withdrawing that portion of the proposal of June 16, 1976, that had expired, along with four other proposals that had expired. In the Federal Register issues of December 15, 1980 (45 FR 82480–82569), and September 27, 1985 (50 FR 39526–39527), the Service published revised notices of review. *E. r.* var. *chisoensis* was placed in category 1 of those notices, meaning that the Service had substantial information supporting the appropriateness of proposing endangered or thereatened status.

The Endangered Species Act Amendments of 1982 required that petitions, such as that comprised by the Smithsonian report, which were still pending as of October 13, 1982, be treated as having been received on that date. Section 4(b)(3) of the Act, as amended, requires that, within 12 months of the receipt of such a petition, a finding be made as to whether the requested action is warranted, not warranted, or warranted but precluded by other activity involving additions to or removals from the Federal Lists of Endangered and Threatened Wildlife and Plants. Therefore, on October 13, 1983, the Service made the finding that determination of endangered status for *E. r.* var. *chisoensis* was warranted but precluded by other listing activity. This finding was published in the Federal Register of January 20, 1984 (49 FR 2485–2488), as corrected in the Federal Register of February 16, 1984 (49 FR 5977). In the case of such a finding, the petition is recycled and another finding becomes due within 12 months. On October 12, 1984, on October 11, 1985, and on October 10, 1986, additional findings of warranted but precluded were made with respect to the listing of *E. r.* var. *chisoensis*. The 1984 and 1985 findings were published, respectively, in the Federal Register issues of May 10, 1985 (50 FR 19761–19763), and January 9, 1986 (51 FR 996–999). Still another finding is due by October 9, 1987, and that finding, to the effect that the petitioned action is warranted, is incorporated in this proposed rule.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Echinocereus reichenbachii* var. *chisoensis* (W.T. Marshall) L. Benson (Chisos Mountain hedgehog cactus) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range

Former overgrazing may have contributed to a decline in grass cover, altering the possible habitat for *E. r.* var. *chisoensis*. Some authorities (Heil and Anderson 1982, Heil *et al.* 1985) think that reduction in grass cover may have removed the species' preferred seedling establishment habitat. Without grazing, natural grass re-establishment may create a more favorable environment for seedlings. However, recovery of overgrazed desert rangeland is a slow process and some desert communities never return to their former composition.

Plants occur within 100 feet (33 meters) of a major road and also near a popular park visitation spot. These plants and their habitat are vulnerable to destruction from road maintenance and repair or from trail building by the National Park Service or contractors.

B. Overutilization for commercial, recreational, scientific, or educational purposes

Commercial collectors find *E. r.* var. *chisoensis* desirable because of its rarity, both in the field and in the trade; private individuals may find it desirable for its attractive flowers. Plants are vulnerable to taking because many occur near a major road where they are readily accessible and where they are highly visible during the flowering season. Because of the low number of individual plants, any taking would be detrimental to the population.

C. Disease or predation

None known.

D. The inadequacy of existing regulatory mechanisms

National Park Service regulations prohibit taking natural or cultural resources from a National Park, except by permit. Otherwise, the Park Service has no special requirements for protection or management of *E. r.* var. *chisoensis*. All cacti are included on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Species on Apprendix II require a permit from the originating country before being shipped internationally. CITES only applies to international trade and does not regulate commerce either between or within States. *E. r.* var. *chisoensis* is not currently protected by either Federal or State law.

E. Other natural or manmade factors affecting its continued existence

Scarcity (approximately 1,000 individuals) and limited distribution make this plant vulnerable to both natural and human-caused threats. Any further reduction in numbers could reduce the reproductive capabilities and genetic potential of the plant.

Long or short term climatic changes may be creating drier conditions in the area, possibly contributing to a population decline. Evans (pers. comm. 1986) notes that the spring of 1986 was very dry. As a result, few *E. r.* var. *chisoensis* flowered or fruited and many looked dessicated. Zimmerman (pers. comm. 1986) suggests that a long term shift toward drier conditions has created a less than adequate reproductive situation for this species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *E. r.* var. *chisoensis* as threatened. Although this plant has a small population size and limited distribution, threatened, rather than endangered, status seems appropriate because extinction does not appear imminent, and some protection is already provided by the National Park Service. The reasons for not designating critical habitat are discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *E. r.* var. *chisoensis* at this time. As discussed under Factor "B" in the "Summary of Factors Affecting

the Species," this plant is threatened by taking. Publication of critical habitat descriptions and maps would make the plant even more vulnerable. The National Park Service has been notified of the locations of the plant and the importance of protection. Habitat protection will be addressed thrugh the recovery process and through Section 7 of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The usual result of a section 7 consultation, if jeopardy is found, is modification and not cancellation of a proposed action. Road improvements or trail construction by the National Park Service or contractors may damage or remove some plants and habitat of *E. r.* var. *chisoensis*. If planned construction activities may affect this cactus, the National Park Service must enter into consultation with the Service prior to initiation of a project. No other Federal activities are known or are expected to affect this species.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any threatened plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened agencies under certain circumstances. With respect to *E. r.* var. *chisoensis*, it is anticipated that few trade permits would ever be sought or issued since the plant is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

Echinocereus reichenbachii var. *chisoensis* is on Appendix II of the Covention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Species on Appendix II require a permit from the country of origin prior to export. International trade in this plant is minimal. If this species is listed under the Act, the Service will review it to determine whether it should be classified under CITES.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *E. r.* var. *chisoensis;*

(2) The location of any additional population of *E. r.* var. *chisoensis* and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of *E. r.* var. *chisoensis*; and

(4) Current or planned activities in the subject area and their possible impacts on *E. r.* var. *chisoensis.*

Final promulgation of the regulation on *E. r.* var. *chisoensis* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director (see **ADDRESSES** section).

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of 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** of October 25, 1983 (48 FR 49244).

References Cited

Benson, L. 1969. The cacti of the United States and Canada—New names and nomenclature combinations—I. Cactus and Succulent Journal (U.S.) 41:124–128.

Benson, L. 1982. The cacti of the United States and Canada. Stanford University Press, 1044 pp.

Evans, D.B. 1986. Survey of Chisos pitaya (*Echinocereus reichenbachii* var. *chisoensis*). U.S. National Park Service, Big Bend National Park, Texas, 18 pp.

Heil, K.D. and E.F. Anderson. 1982. Status report on *Echinocereus chisoensis*. U.S. Fish and Wildlife Service, Office of Endangered Species, Albuquerque, New Mexico, 19 pp.

Heil K.D., S. Brack, and J.M. Porter. 1985. The rare and sensitive cacti of Big Bend National Park. U.S. National Park Service, Big Bend National Park, Texas 41 pp.

Marshall, W.T. 1940. *Echinocereus chisoensis* sp. nov. Cactus and Succulent Journal (U.S.) 12:15.

Author

The primary author of this proposed rule is Sue Rutman, Endangered Species Office, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972) or FTs 474–3972).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, 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. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Cactaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*		
CACTACEAU—CACTUS FAMILY:						
Echinocereus reichenbachii var. *chisoensis* (= *Echinocereus chisoensis*).	Chisos Mountain hedgehog cactus	U.S.A. (TX)	T	———	NA	NA
*	*	*	*	*		

Dated: June 18, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–15185 Filed 7–2–87; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 52, No. 128
Monday, July 6, 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

Office of the Secretary

Meat Import Limitations, Third Quarterly Estimate

Public Law 88–482, enacted August 22, 1964, as amended by Pub. L. 96–177 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lambs, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62) which may be imported into the United States in any calendar year. Such limitations are to be imposed when the Secretary of Agriculture estimates that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated aggregate quantity of meat articles prescribed for calendar year 1987 by subsection 2(c) as adjusted under subsection 2(d) of the Act.

As published on January 5, 1987 (52 FR 311), the estimated aggregate quantity of meat articles prescribed by subsection 2(c), as adjusted by subsection 2(d) of the Act, for calendar year 1987 is 1,309 million pounds.

In accordance with the requirements of the Act, I have determined that the third quarterly estimate for 1987 of the aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1987 is 1,420 million pounds.

Done at Washington, DC, this 29th day of June, 1987.

Richard E. Lyng,

Secretary.

[FR Doc. 87–15261 Filed 7–2–87; 8:45 am]

BILLING CODE 3410–10–M

Office of Energy National Panel on Cost Effectiveness of Fuel Ethanol Production; Meeting

AGENCY: Office of Energy, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the Office of Energy, USDA announces a forthcoming meeting of the National Panel of Cost Effectiveness of Fuel Ethanol Production.

DATE AND TIME: July 21, 1987, 8:30 a.m. to 4:30 p.m.

ADDRESS: Main Conference Room, Fourth Floor, 4300 King Street, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Earle E. Gavett, Office of Energy, USDA, Washington, DC 20250–2600, 202–447–2634.

SUPPLEMENTARY INFORMATION: The USDA National Panel on Cost Effectiveness of Fuel Ethanol Production was established under section 13 of the Farm Disaster Assistance Act of 1987 (Pub. L. 100–45) to conduct of a study of the cost effectiveness of fuel ethanol production for Congress and the Secretary of Agriculture. The Panel is comprised of seven members representing various agricultural, fuel ethanol and government interests. The meeting will be open to the public.

Agenda

July 21, 1987.

8:30 a.m.—Orientation of Panel and exchange of technical information.

4:30 p.m.—Adjourn.

Earle E. Gavett,

Director, Office of Energy.

[FR Doc. 87–15319 Filed 7–2–87; 9:59 am]

BILLING CODE 3410–73–M

Food and Nutrition Service

Cash in Lieu of Commodities; Value of Donated Commodities for School Year 1987

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces that, since the value of agricultural commodities and other foods provided meets the level of assistance authorized under the National School Lunch Act, there will be no shortfall cash payments to States for the National School Lunch Program for the 1987 school year. The Secretary of Agriculture has determined that the annually programmed level of assistance was met in food donations by June 30, 1987.

FOR FURTHER INFORMATION CONTACT: Susan Proden, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302, (703) 756–3660.

SUPPLEMENTARY INFORMATION:

Classification

This action, which implements a mandatory provision of section 6(b) of the National School Lunch Act, has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "nonmajor."

It meets none of the three criteria in the Executive Order: The action will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Anna Kondratas, Administrator, Food and Nutrition Service has certified that it will not have a significant economic impact on a substantial number of small entities. The primary purpose of the action is to notify States that the amount of foods donated will meet the programmed level for the school year 1987; therefore, no payment of cash in lieu of donated foods will be necessary.

Section 6(b) of the National School Lunch Act (the Act), as amended (42 U.S.C. 1755(b) and the regulations governing cash in lieu of donated foods (7 CFR Part 240) require the Secretary of Agriculture by June 1 of each school year to estimate the value of agricultural commodities and other foods that will be delivered to States during that school

year. Under the food distribution regulations (7 CFR Part 250), these foods are used by schools participating in the National School Lunch Program. If the estimated value is less than the total level of commodity assistance authorized under section 6(e) of the Act, the Secretary is required by July 1 of that school year to pay to each State administering agency funds equal to the difference between the value of programmed deliveries and the total level of authorized assistance for each State.

For school year 1987 the adjusted minimum national average value of donated foods or payment of cash in lieu thereof per lunch has been established under section 6(e) at 11.25 cents per lunch. In accordance with this requirement, a national entitlement of $434,396,960 in commodities was established for school year 1987. The Secretary has determined that at least that amount was available for delivery nationally by June 30, 1987 to meet the mandated level of assistance.

Notice is hereby given, therefore, that no shortfall cash payments will be made for the school year ending June 30, 1987.

This notice contains no reporting or recordkeeping provision necessitating clearance by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

(Catalog of Federal Domestic Assistance No. 10.550)

Dated: June 29, 1987.

Anna Kondratas,

Administrator, Food and Nutrition Service.

[FR Doc. 87-15167 Filed 7-2-87; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 70612-7112]

Foreign Availability Assessment; Stored Program Controlled Central Office Switching Systems

AGENCY: Office of Foreign Availability, Export Administration, Commerce.

ACTION: Notice of finding of foreign availability assessment.

SUMMARY: The Office of Foreign Availability (OFA) of Export Administration is required by sections 5 (f) and (h) of the Export Administration Act of 1979, as amended, to initiate and review claims of foreign availability on items controlled for national security purposes.

OFA has completed an assessment on digital, stored program controlled central office switching systems, which are controlled under ECCN 1567A on the Commodity Control List (Supplement No. 1 to § 399.1), pursuant to a claim certified by the Telecommunications Equipment Technical Advisory Committee. Based on this assessment, the Department of Commerce has found that foreign availability does not exist for this commodity.

FOR FURTHER INFORMATION CONTACT: Randy Pratt, Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-5953.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this assessment was to determine whether national security export controls should be continued. This assessment was initiated by the Telecommunications Equipment Technical Advisory Committee, which submitted a certified claim pursuant to section 5(h)(6) of the Export Administration Act of 1979, as amended, and § 391.2 of the Export Administration Regulations (15 CFR Parts 368 through 399). The ensuing investigation and assessment by the Office of Foreign Availability concluded that, although small capacity digital, stored program controlled switching systems with certain limited features are available to the Soviet Bloc, as the Telecommunications Equipment Technical Advisory Committee certified, current quantities are not sufficient as to render COCOM controls ineffective. The "sufficient quantity" criterion, as defined in ¶ 391.3 of the Export Administration Regulations, must be satisfied in order for a positive finding of foreign availability to be made.

If the Office of Foreign Availability receives substantive new evidence of foreign availability, this assessment will be reevaluated. Inquiries concerning the scope of this assessment may be directed to the Office of Foreign Availability at the above address.

Dated: June 30, 1987.

Irwin M. Pikus,

Director, Office of Foreign Availability.

[FR Doc. 87-15152 Filed 7-2-87; 8:45 am]

BILLING CODE 3510-DT-M

[A-122-402]

Certain Dried Heavy Salted Codfish From Canada; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests from three producers and/or exporters and one importer, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain dried heavy salted codfish from Canada. The review covers three producers and/or exporters of this merchandise and the period July 3, 1985 through June 30, 1986. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5289/5255.

SUPPLEMENTARY INFORMATION:

Background

On July 8, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 27836) an antidumping duty order on certain dried heavy salted codfish from Canada. Three producers and/or exporters and one importer requested, in accordance with §353.53a(a) of the Commerce Regulations, that we conduct an administrative review. We published a notice of initiation on August 25, 1986 (51 FR 30259). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized

System ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate *Tariff Schedule of the United States Annotated ("TSUSA")* item numbers and the appropriate HS item numbers with our product description on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

The product covered by this review is certain dried heavy salted codfish, including soft-dried codfish from Canada, and is currently provided for in TSUSA item 111.2200. This product is currently classifiable under HS item 0305.62.00. The term "certain dried heavy salted codfish" covers dried heavy salted codfish, which may be whole, or processed by removal of heads, fins, viscera, scales, vertebral columns, or any combination thereof but not otherwise processed, and not in airtight containers. The review covers three exporters of this merchandise to the United States and the period from July 3, 1985 through June 30, 1986.

United States Price

In calculating United States price, the Department used purchase price as defined in section 772 of the Tariff Act since all sales were made to unrelated purchasers in the United States prior to importation. Purchase price was based on the packed, f.o.b., c. and f., or c.i.f. price to unrelated purchasers in the United States. We made adjustments, where applicable, for inland freight, ocean freight, and marine insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used either home market price or the price to third countries as defined in section 773 of the Tariff Act since sufficient quantities of such or similar merchandise were sold at or above the cost of production to provide a basis for comparison.

Home market price was based on the packed ex-factory or delivered price to unrelated purchasers. Third-country price was based on the packed c.i.f. or c. and f. prices to unrelated purchasers. For Canadian Saltfish Corporation, we compared third-country selling price to cost of production and eliminated from our calculations any below cost sales when those sales constituted more than 10 percent of total sales in the such or similar category. We made adjustments, where appropriate, for inland freight, ocean freight, marine insurance, commissions to unrelated parties, and differences in credit expenses and physical characteristics of the merchandise. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exists:

Manufacturer/Exporter:	Margin (percent)
Canadian Saltfish Corp	0.15
Pecheries Malbaie	0
D.A. Waybret & Sons Ltd	0

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice. Any requests for a hearing must be made within 8 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Interested parties may also submit written comment on these preliminary results within 30 days of the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearings.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Since the margin for Canadian Saltfish Corporation is less than 0.5 percent and therefore *de minimis*, for cash deposit purposes the Department shall not require a cash deposit of estimated antidumping duties for the above firms. For any shipments from the remaining known manufacturers and/or exporters not covered in this review, a cash deposit shall be required at the rates published in the antidumping duty order (50 FR 20819, July 8, 1985). For any future entries of this merchandise from a new exporter not covered in this or in prior reviews, whose first shipment occurred after June 30, 1986, and who is unrelated to any reviewed firm or any other previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Canadian certain dried heavy salted codfish entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: June 29, 1987.

Gilbert B. Kaplin,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-15230 Filed 7-2-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-605]

Antidumping Duty Order; Malleable Cast Iron Pipe Fittings From Japan

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In separate investigations concerning malleable cast iron pipe fittings from Japan, the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that malleable cast iron pipe fittings from Japan are being sold at less than fair value and that sales of malleable cast iron pipe fittings from Japan are materially injuring a United States industry. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of malleable cast iron pipe fittings from Japan made on or after February 13, 1987, the date on which the Department published its "Preliminary Determination" notice in the Federal Register, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping order in the Federal Register.

EFFECTIVE DATE: July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Charles Wilson, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–4087 or 377–5288, respectively.

SUPPLEMENTARY INFORMATION: The products covered by this investigation are malleable cast iron pipe fittings, advanced in condition by operations or processes subsequent to the casting process other than with grooves, or not advanced, of cast iron other than alloy cast iron, as currently provided for in items 610.7000 and 610.7400 of the Tariff Schedules of the United States Annotated (TSUSA).

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on February 5, 1987, the Department made its preliminary determination that there was reason to believe or suspect that malleable cast iron pipe fittings from Japan were being sold at less than fair value (52 FR 4635, February 13, 1987). On April 21, 1987, the Department made its final determination that these imports were being sold at less than fair value (52 FR 13855, April 27, 1987).

On June 15, 1987, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that such imports materially injure a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of malleable cast iron pipe fittings from Japan. These antidumping duties will be assessed on all unliquidated entries of malleable cast iron pipe fittings subject to this order entered, or withdrawn from warehouse, for consumption on or after February 13, 1987, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register.**

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below:

	Margins percentage
Manufacturers/producers/exporters:	
Hitachi Metals Limited	57.39
All other manufacturers/producers/exporters	57.39

This determination constitutes an antidumping order with respect to malleable cast iron pipe fittings from Japan, pursuant to section 736 of the Act (19 U.S.C. 1673e) and section 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations Annex I of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Central Records Unit, Room B–099, Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

June 19, 1987.

[FR Doc. 87–15239 Filed 7–2–87; 8:45am]

BILLING CODE 3510–DS–M

[A–549–601]

Final Determination of Sales at Less Than Fair Value: Malleable Cast Iron Pipe Fittings From Thailand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that certain malleable cast iron pipe fittings from Thailand (pipe fittings) are being, or are likely to be sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination.

EFFECTIVE DATE: July 6, 1987.

FOR FURTHER INFORMATION CONTACT: James Riggs or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–1766 or 377–5288.

SUPPLEMENTARY INFORMATION

Final Determination

We have determined that pipe fittings from Thailand are being, or are likely to be sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)). We made fair value comparisons on sales of the class or kind of merchandise to the United States by the sole respondent during the period of investigation, March 1, 1986 through August 31, 1986. The weighted-average margins are listed in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On February 5, 1987, we made an affirmative preliminary determination (52 FR 4637, February 13, 1987) which included a case history. Since then, the following events have occurred:

On February 17, 1987, the respondent requested a postponement of the final determination. We granted that request on March 9, 1987, and postponed the due date of the final determination until June 29, 1987 (52 FR 8088, March 16, 1987). We conducted verification in Bangkok, Thailand from April 6 through April 9, 1987. On April 20, 1987, we made a negative preliminary determination of "critical circumstances" (52 FR 13734, April 24, 1987). A public hearing was held on April 27, 1987. As required by the Act, we afforded interested parties an opportunity to submit written comments to address the issues arising in this investigation.

Scope of Investigation

The products covered by this investigation are malleable cast iron pipe fittings, advanced in condition by operations or processes subsequent to the casting process other than with grooves, or not advanced, of cast iron other than alloy cast iron, as currently provided for in items 610.7000 and 610.7400 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Fair Value Comparisons

Because Siam Fittings Ltd. (Siam) accounted for virtually all of the sales of this merchandise from Thailand, we limited our investigation to this company.

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price since the merchandise was purchased by unrelated U.S. customers directly from

the foreign manufacture prior to importation. We calculated purchase price based on the packed c. & f., c.i.f. or f.o.b. prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and insurance, handling charges, ocean freight, and marine insurance. We made additions to purchase price for duty drawback (i.e., import duties which were rebated, or not collected, by reason of the exportation of the merchandise to the United States) pursuant to section 772(d)(1)(B) of the Act.

Foreign Market Value

As provided in section 773(a) of the Act, we used home market delivered prices of such or similar merchandise to determine foreign market value. We based our calculation of foreign market value on delivered packed prices to unrelated purchasers. We made a deduction, where appropriate, for inland freight. We made an adjustment for differences in circumstances of sales in accordance with § 353.15 of our regulations for differences in credit terms between the two markets.

For those pipe fittings where there were no identical products in the home market with which to compare products sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. These adjustments were based on differences in the costs of materials, direct labor and directly related factory overhead.

We deducted home market packing costs and added the packing costs incurred on sales to the United States.

In accordance with current Departmental policy, we also deducted from foreign market value a business or sales tax which is levied on domestic sales of pipe fittings at a 5.5 percent rate.

We made currency conversions from Thai baht to U.S. dollars in accordance with § 353.56(a)(1) of our regulations.

Negative Determination of Critical Circumstances

The petitioner alleges that "critical circumstances" exist within the meaning of section 735(a)(3) of the Act with respect to imports of malleable cast iron pipe fittings from Thailand. In determining if critical circumstances exist, we must examine whether:

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of investigation of less than fair value; or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value; and

(B) there have been massive imports of the merchandise which is subject to the investigation over a relatively short period.

To determine whether imports have been massive over a relatively short period, we analyzed recent Department of Commerce IM–146 trade statistics on imports of this merchandise for equal periods immediately preceding and following the filing of the petition, from April 1986 through January 1987. Based on this analysis, we find that imports of the subject merchandise have not been massive over a short period.

Since we do not find that there have been massive imports we do not need to consider whether there is a history of dumping or whether importers of this product knew or should have known that it is being sold at less than fair value.

Therefore, we determine that critical circumstances do not exist with respect to imports of pipe fittings from Thailand.

Verification

As provided in section 776(a) of the Act, we verified all information provided by respondent, using standard verification procedures, including examination of accounting records and original source documents containing relevant information on selected sales.

Petitioner's Comments

Comment 1: Petitioner states that freight, insurance and packing charges were allocated on the basis of value rather than by weight, even though some of these charges were probably incurred on a weight basis. Also, petitioner contends that rather than calculating these charges for each shipment, respondent averaged them over the period of investigation. This methodology, according to petitioner, is improper. These charges must be calculated by shipment and then allocated according to the weight of individual fittings.

DOC response: All U.S. charges were re-submitted on a per shipment/invoice basis and not averaged over the period of investigation. Siam averaged home market charges over the period of investigation because they were incurred on a monthly basis, not on a per invoice basis. Additionally, because home market prices and charges do not vary, and are weight averaged in the Department's foreign market value calculations, Siam's averaging of these charges is acceptable. All charges per unit were allocated on the basis of value due to the simplicity of the product, the overall correlation between weight and value, and the fact that respondent's records were kept on the basis of value. We deemed this methodology reasonable and have therefore used respondent's verified U.S. and home market information for our final determination.

Comment 2: Petitioner argues that no adjustment should be made to either U.S. price of foreign market value for non-collection of the Thai Business Tax, because Siam could not demonstrate the extent to which the tax was passed through to its customers.

DOC position: The issue of whether the Department must measure the extent to which taxes are "passed through" to home market customers is currently before the Court of International Trade. Because the litigation is still pending, we have followed our standard practice and, for the reasons stated in our *Final Determination of Sales At Less Than Fair Value: Grand and Upright Pianos From Korea* (50 FR 37561 (1985)), we have assumed that the full amount of these taxes was passed through to home market customers.

Comment 3: Petitioner states that respondent's claim for an adjustment to foreign market value to account for advertising expenses is unjust and must be denied.

DOC position: The claimed advertising expenses are for advertisements placed by Siam in the Bangkok phone book and for an advertisement in a university yearbook. The advertisements state that Siam is a manufacturer, wholesaler, and exporter and list Siam's phone numbers. We have determined, therefore, that the advertisements are directed at Siam's immediate customers and not at its customer's customer and do not qualify, under Departmental policy, for consideration as a circumstance of sale adjustment.

Comment 4: Petitioner questions whether the adjustment to U.S. price for duty drawback was reported correctly because the response showed an *ad valorem* adjustment based on the price of the exported product. This is in contrast to the methodology used in *Final Determination of Sales At Less Than Fair Value: Circular Welded Carbon Steel Pipes and Tubes from Thailand* (51 FR 3384, January 27, 1986) where the drawback was paid on a per shipment basis and claimed as an amount per ton of the product being exported.

DOC position: Respondent submitted duty drawback information calculated on a per-invoice basis. The payments they received were based on the f.o.b. value of merchandise exported. It was therefore possible for Siam to calculate, based on a shipment's value, the exact amount of drawback received. These amounts were verified and Siam's methodology found to be accurate, therefore, we are using Siam's submitted amounts for duty drawback in our final determination.

Comment 5: Petitioner claims that the Department erred in its preliminary determination by making difference in merchandise adjustments when the home market comparison merchandise was identical to the merchandise being sold in the United States and, in some instances, by making a downward rather than upward adjustment to foreign market value where the home market merchandise was less costly to produce.

DOC position: We agree and have corrected our final calculations.

Comment 6: Petitioner argues that critical circumstances exist with respect to Thai pipe fittings.

DOC position: We disagree. (See "Negative Determination of Critical Circumstances" section of this notice.)

Respondent's Comments

Comment 1: Respondent argues that unfinished pipe fittings should not be included in the scope of this investigation as they are not of the same class or kind of merchandise as finished fittings which are exported by Siam. In the alternative, respondent also argues that the Department should calculate separate margins for the two products.

DOC position: We disagree. We are including both finished and unfinished pipe fittings within the scope of the investigation because both are within the same class or kind of merchandise. Unfinished malleable pipe fittings differ from the finished product only by a single processing stage. Unfinished malleable iron pipe fittings are unthreaded, and have no use in the unfinished state. Thus the ultimate use of unfinished malleable iron pipe fittings is the same as the finished product.

The Department has a responsibility to ensure that its orders are not capable of circumvention. In this regard, because of the similarity of the merchandise and the fact that they are only differentiated by a single processing stage, we have determined that it is proper to include both finished and unfinished malleable iron pipe fittings within the scope of this investigation.

Furthermore, the Department's practice has generally been to calculate a single margin for all products within a single class or kind. In view of the fact that the merchandise in this investigation is within a single class or kind, a single margin has been calculated for both products.

Comment 2: The Department must allow Siam an adjustment to foreign market value for home market advertising expenses, as these expenses are incurred in an effort to reach Siam's customers' customers.

DOC position: (See DOC position to petitioner's Comment 3.)

Comment 3: Respondent claims that the Department should make an adjustment to U.S. price for duty drawback because it was demonstrated that the drawback is calculated on the basis of the value of the exports and the information has been submitted on a per shipment basis.

DOC position: We agree. (See DOC position to petitioner's comment 4.)

Comment 4: Respondent argues that the Department must increase U.S. price by 5.5 percent, the verified amount of the Thai Business Tax which is collected on domestic, but not export sales. The Department may properly conclude that the entire amount of the domestic tax is passed on to their customers. If this is not apparent, respondent contends that any portion of the tax which is not passed through to the customer should be considered a circumstance of sale adjustment, as it is an expense incurred only in the home market, and be deducted from foreign market value.

DOC position: (See the "Foreign Market Value" section of the notice and DOC position to petitioner's Comment 2.)

Comment 5: Respondent argues that averaging home market charges over the period of investigation will not affect Siam's overall margin because home market prices do not vary, thus charges will not vary over the period.

DOC position: We agree. (See DOC position to petitioner's Comment 1.)

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of pipe fittings from Thailand that are entered, or withdrawn from warehouse, for comsumption, on or after the date of publication of this notice in the **Federal Register**, in accordance with section 733(d) of the Act. The Customs Service shall require a cash deposit or the posting of a bond on all such entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The margins are as follows:

	Weighted-average margin percentage
Manufacturer/Seller/Exporter:	
Siam fittings	1.70
All others	1.70

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on pipe fittings from Thailand entered, or withdrawn from warehouse, for consumption on or after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

June 29, 1987.

[FR Doc. 87-15240 Filed 7-2-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-003]

Ceramic Tile From Mexico; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on ceramic tile from Mexico. We preliminarily determine the total bounty or grant to be zero or *de minimis* for 43 firms and 3.14 percent *ad valorem* for all other firms during the period July 1, 1984 through December 31, 1984. We preliminary determine the total bounty or grant to be zero or *de minimis* for 42 firms and 4.59 percent *ad valorem* for all other firms during the period January 1, 1985 through December 31, 1985. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: July 6, 1987.

FOR FURTHER INFORMATION CONTACT: Cynthia Gozigian or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 5, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 43944) the final results of its last administrative review of the countervailing duty order on ceramic tile from Mexico (47 FR 20013, May 10, 1982). On May 21 and May 29, 1986, a Mexican exporter, Azulejos Orion, S.A., and the Government of Mexico, respectively, requested in accordance with 19 CFR 355.10 an administrative review of the order. We published the initation of the administrative review on June 23, 1986 (51 FR 22843). The Department has now conduced this administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate *Tariff Schedule of the United States Annotated* ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule

Imports covered by this review are shipments of Mexican ceramic tile, including non-mosaic, glazed, and unglazed ceramic floor and wall tile, currently classifiable under TSUSA item numbers 532.2400 and 532.2700. These products are currently classifiable under HS item numbers 6908.10.50—2 and 6907.10.00—0. We invite comments from all interested parties on these HS numbers. The review covers the periods July 1, 1984 through December 31, 1984 ("the 1984 period"), and January 1, 1985 through Deember 31, 1985 ("the 1985 period") and 13 programs.

Analysis of Programs

(1) FOMEX

The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust of the Mexican Treasury Department, with the National Bank of Foreign Trade acting as trustee for the program. The National Bank of Foreign Trade, through financial institutions, makes FOMEX loans available at preferential rates to manufacturers and exporters for two purposes: pre-exprot financing and export financing. We consider both pre-export and export FOMEX loans to be export bounties or grants since these loans are given only on merchandise destined for export. We found that the annual interst rate financial institutions charged borrowers for peso-denominated FOMEX pre-export financing outstanding during the period of review ranged from 17.50 to 39.60 percent. The annual interest rate for dollar-denominated FOMEX export financing ranged from 6.00 to 8.50 percent during the period of review.

We have sufficient information to measure effective interest rates for peso-denominated loans and for 1985 dollar-denominated loans. (*See* final results of administrative review on fabricated automotive glass form Mexico (51 FR 44652, December 11, 1986).) To determine the effective interest rate benchmark for 1984 peso loans, we calculated an average annual effective rate from data published by the Banco de Mexico in its monthly publication, *Indicadares Economicos* ("I.E."). In 1985, the Banco de Mexico stopped publishing data on nominal and effective interest rates. Therefore, we calculated the average spread between the CPP rates (the Costo Porcentual Promedio, *i.e.*, the average cost of short-term funds to banks) and the I.E. effective rates for the period 1982 through 1985, the only period for which we have I.E. rates. The effective interest rate benchmark for 1984 is the sum of this average spread and the average CPP rate for 1985.

To determine the effective interest rate benchmark for 1985 dollar loans, we used the quarterly weighted-average effective interest rates published in the *Federal Reserve Bulletin*. For 1984 dollar loans, there was no comparable data on effective rates in the *Federal Reserve Bulletin*. Therefore, we used a nominal interest rate benchmark and compared it to the nominal preferential interest rates.

We consider the benefit from loans to occur when the interest is paid. Interest on FOMEX pre-export loans is paid at maturity, and those that matured during the period of review were obtained between June 1984 and October 1985. For our benchmarks, we used 73.78 percent for pre-export peso loans obtained in 1984, and 86.26 percent for those loans obtained in 1985. Since interest on FOMEX export loans is pre-paid, we calculated benefits from all FOMEX export loans received during the period of review. For these dollar-denominated loans, we used as our benchmarks 13.97 percent during 1984 and 12.85 percent during 1985.

Four of the 46 known exporters of this merchandise used this program during the period of review. Because we found that the exporters were able to tie their FOMEX loans to exports to specific countries, we measured the benefit only from FOMEX loans tied to U.S. shipments. We allocated each company's benefit over the value of its total U.S. shipments during the period of review. We then weight-averaged the resulting benefits by each company's proportion of total exports to the United States (excluding exports from firms with zero or *de minimis* aggregate

benefits) during the period of review. We preliminarily determine the benefit from FOMEX pre-export loans to be 1.88 percent *ad valorem* for the 1984 period and 2.92 percent *ad valorem* for the 1985 period. We preliminarily determine the benefit from FOMEX export loans to be 0.65 percent *ad valorem* for the 1984 period, and 0.68 percent *ad valorem* for the 1985 period. The total benefit is 2.53 percent *ad valorem* for the 1984 period, and 3.60 percent *ad valorem* for the 1985 period.

In February 1987, the Banco de Mexico changed the interest rates on FOMEX peso loans to 95.00 percent and on dollar loans to 6.40 percent. To calculate the FOMEX benefit for cash deposit purposes, we followed the same methodology used in calculating assessment rates for the 1985 period. For peso loans we used as our benchmark the sum of the most recent CPP rate (i.e., February 1987) and the average 1982–1984 spread between the CPP and the I.E. effective rates. For dollar loans we used as our benchmark the February 1987 weighted-average effective interest rate from the *Federal Reserve Bulletin*. On this basis, we preliminarily find, for purposes of cash deposits of estimated countervailing duties, a FOMEX benefit of 1.42 percent *ad valorem*.

(2) Article 15

Article 15 of the General Law of Credit Institutions and Auxiliary Organizations ("the Banking Law") established that up to seven percent of a bank's total deposits must be funneled as loans into specially designated sectors of economic activity. The Banco de Mexico established 8 industrial categories that are eligible to obtain financing under Article 15. One category consists only of exports of manufactured products. Loans granted under Article 15 are provided at an interest rate of CPP minus 5 percentage points.

Two firms received peso-denominated loans under Article 15 during the period of review. We consider such financing to constitute an export bounty or grant because it is provided at below market rates only for merchandise destined for export. The interest on these loans is paid at maturity. To calculate the benefit, we used the same benchmarks as for the FOMEX peso-denominated pre-export loans.

Since these Article 15 loans are based on exports to all countries, we allocated each company's benefit over the value of its total exports during the period of review. We then weight-averaged the resulting benefits by each company's proportion of total exports to the United States (excluding exports from firms with zero or *de minimis* aggregate benefits) during the period of review. On this basis, we preliminarily determine the benefit from this program to be 0.61 percent *ad valorem* for the 1984 period, and 0.98 percent *ad valorem* for the 1985 period.

(3) CEPROFI

Certificates of Fiscal Promotion ("CEPROFI") are tax certificates used to promote the goals of the National Development Plan ("NDP"). They are granted in conjunction with investments in designated industrial activities or geographic regions and can be used to pay a variety of federal tax liabilities.

Article 25 of the decree that established the authority for issuing CEPROFI's, published in the *Diario Oficial* on March 6, 1979, requires each recipient to pay a four percent supervision fee. The four percent supervision fee is "paid in order to qualify for, or to receive," the CEPROFI's. Therefore, it is an allowable offset, as defined in section 771(6)(A) of the Tariff Act, from the gross bounty or grant.

Ceramic tile firms can receive CEPROFI benefits under three provisions: "Category I," which makes CEPROFI certificates available for the manufacture and processing of construction and capital goods; "Category II," which makes CEPROFI certificates available for particular industrial activities; and a third provision, which makes CEPROFI certificates available for the purchase of Mexican-made equipment.

The Department held in the final affirmative countervailing duty determination on bricks from Mexico (49 FR 19564, May 8, 1984) that CEPROFI certificates granted for the purchase of Mexican-made equipment are not countervailing since such certificates are available to any company that purchases Mexican-made equipment. We consider the other two types of CEPROFI certificates to be domestic bounties or grants because they are available only to certain industries. We allocated the benefits each company received from the Category I and Category II CEPROFI provisions, less the four percent supervision fee, over the total value of each firm's sales to all markets during the period of review. For the two firms that received CEPROFI certificates, the benefits ranged between 0.01 and 0.23 percent. Because these firms had *de minimis* aggregate benefits for the period of review, we did not include benefits from this program in the country-wide rate.

(4) FONEI

The Fund for Industrial Development ("FONEI"), administered by the Bank, is a specialized financial development fund that provides long-term loans at below-market rates. FONEI loans are available under various provisions having different eligibility requirements. The plant expansion provision is designed for the creation, expansion, or modernization of enterprises in order to promote the efficient production of goods capable of competing in the international market or to meet the objectives of the NDP, which include industrial decentralization. We consider this FONEI loan provision to confer a bounty or grant because it restricts loan benefits to those enterprises located outside of Zone IIIA. Three firms had variable rate peso-denominated FONEI loans for plant expansion or modernization outstanding during the period of review.

We treated these variable-rate loans as a series of short-term loans. To calculate the benefit, we used the same benchmarks as for the FOMEX peso-denominated pre-export loans and compared them to the preferential interest rates in effect for each FONEI loan payment made during the period of review. We allocated the benefits over each company's total sales to all markets. For the three firms that made interest payments on FONEI loans the benefits ranged between 0.00005 and 0.03 percent. Because these firms had *de minimis* aggregate benefits during the period of review, we did not include benefits from this program in the country-wide rate.

(5) FOGAIN

The Guarantee and Development Fund for Medium and Small Industries ("FOGAIN") is a program that provides long-term loans to all small-and medium-size firms in Mexico. The interest rates available under the program vary depending on whether a small-or medium-size business has been granted priority status, and whether a business is located in a zone targeted for industrial growth.

Although FOGAIN loans are available to all small-and medium-size firms in Mexico, regardless of the type of industry or location, some companies receive more beneficial rates than others. Therefore, to the extent that this program provides financing at rates below the least beneficial rate available under FOGAIN, we consider it to be countervailable.

Three firms had FOGAIN loans on which interest payments were due

during the period of review. Because the interest rates are variable, we treated each loan as a series of short-term loans. To determine the benefit, we used as our benchmarks the least beneficial interest rates in effect for each FOGAIN loan payment made during the period of review.

We allocated the benefits from each loan over each firm's total sales to all markets. For the three firms that made interest payments on FOGAIN loans the benefits ranged between 0.0002 and 0.43 percent. Because these firms had *de minimis* aggregate benefits during the period of review, we did not include benefits from this program in the country wide-rate.

(6) Other Programs

We also examined the following programs and preliminary find that exporters of ceramic tile did not use them during the review period:

(A) State tax incentives;

(B) National Industrial Development Fund ("FOMIN");

(C) NDP preferential discounts;

(D) Trust Fund for the Study and Development of Industrial Parks ("FIDEIN");

(E) Bancomext loans;

(F) Delay of payments on loans;

(G) Delay of payments to PEMEX of fuel charges; and

(H) Import duty reductions and exemptions.

Firms Not Receiving Benefits

The following 42 firms received zero or *de minimis* benefits during the 1984 and 1985 periods:

(1) Augustin Cedillo Ruiz
(2) Antonio Villaueva
(3) Azulejos Deocrativos Carrillo
(4) Azulejos Orion
(5) Benjamin Chavez Torres
(6) Camerino Chavez Parga
(7) Ceramica Santa Julia
(8) Ceramica y Pisos Industriales de Culiacan, S.A. de C.V.
(9) Dionicio Sanchez Cruz
(10) Eduardo S. Garcia de la Pena
(11) Fabrica de Azulejos Tipo Talavera
(12) Francisco Almanza E.
(13) Francisco Gallegos
(14) Francisco Rincon Leija
(15) Gonzalo Escobedo Garza
(16) Guadalupe Rocha Calvillo
(17) J. Garza Arocha, S.A.
(18) Homeo Sifuentes Jiminez
(19) Idelfonso Chavez Parga
(20) Industrias Age, S.A.
(21) Internacional de Ceramica
(22) Isabel Cortez Coronel
(23) Jesus Flores Carrillo
(24) Jesus Gallegos Olivares
(25) Jesus Jimenez Lucio
(26) Jose Davilla Torres
(27) Jose S. Vazquez G.
(28) Ladrillera Monterrey
(29) Juan Cortez Coronel
(30) Juan Rodriquez Rocha
(31) Julio Jimenez Quiroz
(32) Leopoldo Montiel Rincon
(33) Manual Alvarez Ramon
(34) Matilde Rincon Leija
(35) Pablo Cortez Coronel
(36) Pedro Hernandez Torres
(37) Pedro Lopez Alonso
(38) Pisos Coloniales de Mexico, S.A.
(39) Ramon Lopez Ovalle
(40) Simon Jaime Balandran Zapata
(41) Sotero Jalomo R.
(42) Tranquilino Flores C.

In addition, the rate for Barros Tlaquepaque was *de minimis* during the 1984 period.

Preliminary Results of Review

As a result of our review, we preliminarily determine the total bounty or grant to be zero or *de minimis* for the 42 firms and Barros Tlaquepaque, and 3.14 percent *ad valorem* for all other firms during the 1984 period. We preliminarily determine the total bounty or grant to be zero or *de minimis* for the 42 firms and 4.59 percent *ad valorem* for all other firms during the 1985 period.

The Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from Barros Tlaquepaque and the 42 firms listed above and to assess countervailing duties of 3.14 percent of the f.o.b. invoice price on shipments from all other firms exported on or after July 1, 1984 and on or before December 31, 1984, and to liquidate without regard to countervailing duties shipments of this merchandise from the 42 firms and to assess countervailing duties of 4.59 percent of the f.o.b. invoice price on shipments from all other firms exported on or after January 1, 1985 and on or before December 31, 1985.

The Department intends to instruct the Customs Service to wavie cash deposits of estimated countervailing duties, as provided by section 751(a)(l) of the Tariff Act, on shipments of this merchandise from the 42 firms listed above and, due to the change in the FOMEX interest rates, to collect a cash deposit of estimated countervailing duties of 2.07 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This deposit requirement and waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday following. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(i) of the Tariff Act (19 U.S.C. 1675(a)(l) and 19 CFR 355.10.

Dated: June 29, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-15231 Filed 7-3-87; 8:45 am]

BILLING CODE 3510-DS-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting; Alabama Advisory Committee

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 Alabama Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 12:30 p.m., on July 10, 1987, at the Sheraton Riverfront Hotel, 200 Coosa Street, Montgomery, Alabama. The purpose of the meeting is to provide orientation for new Committee members and develop program plans for future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Rodney Max, 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 Division 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 19, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87-15144 Filed 7-2-87; 8:45 am]

BILLING CODE 6335-01-M

Agenda and Notice of Public Meeting; Hawaii Advisory Committee

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 Hawaii Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 12:00 noon, on July 23, 1987, at the Waikiki Trade Center, 2255 Kuhio Avenue, Suite 1800, Honolulu, Hawaii 96815. The purpose of the meeting is to develop program plans and to obtain information on the status of the Commission and its regional operations.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Andre S. Tatibouet, or Philip Montez, Director of the Western Regional Division (213) 894–3437, (TDD 213/894–0508). 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 22, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–15145 Filed 7–2–87; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Notice of Public Meeting; Montana Advisory Committee

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 Montana Advisory Committee to the Commission will convene at 10:30 a.m. and adjourn at 3:30 p.m., on July 18, 1987, at the Northen Hotel, Broadway and First Avenue, North, Billings, Montana 59101. 75235. The purpose of the meeting is to plan activities and programming for the coming year.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Betty Babcock or Philip Montez, Director of the Western Regional Division (213) 894–3437, (TDD 213/894–0508). 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 29, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–15146 Filed 7–2–87; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Notice of Public Meeting; Mississippi Advisory Committee

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 Mississippi Advisory Committee to the Commission will convene at 8:00 a.m. and adjourn at 4:30 p.m., on July 23, 1987, at the State Historical Museum, Old Capitol Restoration, 100 South State Street, Jackson, Mississippi. The purpose of the meeting is to develop program ideas and activities for the remainder of the fiscal year and to hold a community forum on the status of civil rights in Mississippi.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Acting Chairperson, Catherine A. Palmquist, 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 Division 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 26, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–15273 Filed 7–2–87; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Notice of Public Meeting; Rhode Island State Advisory Committee

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 Rhode Island State Advisory Committee to the Commission will convene at 12:00 noon and adjourn at 3:00 p.m. on July 16, 1987, at the R. I. Human Rights Commissin (Hearing Room), 10 Abbott Park Cliff, Providence, Rhode Island. The purpose of the meeting is to discuss the status of the agency, and collect informatin regarding civil rights issues in the implementation of the legalization and employer-sanction programs under the Immigration Reform and Control Act of 1986.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson David H. Sholes (401–463–5284) or John I. Binkely, Director of the Easter Regional Dividioin (202–523–5264; TDD 202–376–8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division 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 16, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–15274 Filed 7–2–87; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Notice of Public Meeting; South Carolina Advisory Committee

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 South Carolina Advisory Committee to the Commission will convene at 10:30 a.m. and adjourn at 3:30 p.m. on July 28, 1987 at the Columbia Marriott, 1200 Hampton Street, Columbia, South Carolina 29201. The purpose of the meeting will be to hear reports from the Chairman and the regional director of a recent conference of SAC chairpersons and the status of the Commission and its State Advisory Committees. The committee will also conduct a community forum on racial and religious violence and bigotry in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Hon. Elizabeth Patterson (803) 582–1970 or John I. Binkley, Director of the Eastern Regional Division, at (202) 523–5264; TDD (202) 376–8117. Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division 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 24, 1987.
Susan J. Prado,
Acting Staff Director.
[FR Doc. 87-15275 Filed 7-2-87; 8:45 am]
BILLING CODE 6335-01-M

Agenda and Notice of Public Meeting; Vermont Advisory Committee

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 Vermont Advisory Committee to the Commission will convene at 7:30 p.m. and adjourn at 9:30 p.m. on July 16, 1987, in the First Floor Conference Room of the Burlington City Hall, at the corner of Church and Main Streets, Burlington, Vermont. The purpose of the meeting is to discuss the status of the agency, recommendations for the report on "Civil Rights Laws and Methods of Enforcement in Vermont," and plans for the coming year.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee member Philip H. Hoff (802/658-4300) or Committee Member Samuel B. Hand (802/656-3180) in Vermont or John I. Binkley, Director of the Eastern Regional Division (202/523-5264; TDD 202/376-8117) in Washington, DC. Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division 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 16, 1987.
Susan J. Prado,
Acting Staff Director.
[FR Doc. 87-15272 Filed 7-2-87; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Chevron, U.S.A., Inc., et al; Proposed Consent Order

AGENCY: Economic Regulatory Administration.

ACTION: Notice of proposed consent order and opportunity for comments.

SUMMARY: The Economic Regulatory Administration ("ERA") announces a proposed Consent Order for $3,000,000.00, executed on June 11, 1987 between the Department of Energy ("DOE") and Chevron, U.S.A., Inc., a wholly owned subsidiary of Chevron Corporation, and Chevron Corporation (hereinafter collectively referred to as "Chevron"), and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

The proposed Consent Order proposes to settle certain matters not previously resolved in the January 30, 1985 Consent Order, as modified on June 14, 1985, ("1985 Consent Order") between Gulf Oil Corporation ("Gulf") and the DOE. Chevron is the successor to Gulf.

The 1985 Consent Order in paragraph 501(h) explicitly excluded from its coverage the issue of the lawfulness under DOE's petroleum price and allocation regulations or crude oil transactions by Gulf, the purpose or effect of which was to increase the amount of consideration received by Gulf for price-controlled crude oil or to evade Gulf's obligations under DOE's crude oil cost equalization program.

Subsequent to the 1985 Consent Order, the ERA conducted an investigation of the matters covered by paragraph 501(h) thereof, including an audit of Gulf's foreign and domestic crude oil transactions during the regulatory period. As a result of its investigation, the ERA challenged the lawfulness of certain crude oil sales (the "transactions") to Horizon Petroleum Company ("Horizon"), a crude oil reseller, by Gulf during the period July 1, 1980 through October 31, 1980, in which Gulf sold to Horizon both foreign and domestic crude.

The ERA proposes to settle its claims arising from these transactions in return for the payment by Chevron to the DOE of $3,000,000, plus interest from the date of DOE's executive of the proposed Consent Order. This proposed settlement reflects negotiated compromises present in every settlement, including assessments of litigation risks in the areas of dispute between ERA and Chevron. This Consent Order would resolve Chevron's potential civil liability for the matters set forth in paragraph 501(h) of the 1985 Consent Order.

Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000.00 or more, excluding interest and penalties, becomes effective no sooner than thirty (30) days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order as signed. DOE's final decision will be published in the **Federal Register**, along with an analysis of and response to the significant comments, as well as any other consideration that were relevant to the decision.

Within thirty (30) days of the effective date of the Consent Order, Chevron will make a restitutionary payment of $3,000,000, plus interest from the date the Consent Order was executed by DOE. ERA will direct that these monies be deposited in a suitable account for distribution by DOE in accordance with the special refund procedures at 10 CFR Part 205, Subpart V.

DATE: Comments by August 5, 1987.

ADDRESS: Send comments to Chevron Consent Order Comments, Office of the Solicitor, RG-43, Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Courtney Blake, Office of the Solicitor, RG-43, Economic Regulatory Administration, 1000 Independence Avenue, SW, Washington, DC 20585. Copies of the proposed consent order may be obtained free of charge by writing or calling this office at (202) 586-4235.

SUPPLEMENTARY INFORMATION:

I. Introduction

Gulf was a major petroleum refiner subject to the audit jurisdiction of ERA to determine compliance with the federal petroleum price and allocation regulations. During the period covered by this proposed Order (January 1, 1973 through January 28, 1981) ("the Regulated Period"), Gulf engaged in, among other things, the production, importation, refining, and sale of crude oil; the sale of residual fuel oil, motor gasoline, middle distillates, aviation fuel, propane and other refined petroleum products; and the extraction, fractionation and sale of natural gas liquids and natural gas liquid products.

Prior to March 8, 1985, ERA conducted an audit of Gulf's compliance for the Regulated Period. On March 8, 1985, ERA issued a notice announcing a proposed consent order between DOE and Gulf which, with specific exceptions, would resolve all matters relating to Gulf's compliance with federal petroleum price and allocation regulations for the period January 1, 1973 to January 28, 1981. 50 FR 9493

(March 8, 1985). Following the solicitation of written comments and a public hearing, ERA issued a **Federal Register** notice on June 14, 1985 announcing that the proposed consent order as modified in certain respects was made a final order of DOE. 50 FR 24929 (June 14, 1985) ("the 1985 Consent Order").

Paragraph 501(h) of the 1985 Consent Order excluded from the coverage of the 1985 Consent Order certain matters in the following language:

> (h) the issue of the lawfulness under DOE regulations of reciprocal crude oil transactions in which Gulf sold to, purchased from or exchanged controlled crude oil with another party or agent thereof pursuant to an agreement or understanding that such other party as agent thereof would sell to, purchase from, or exchange with Gulf certain volumes of uncontrolled crude oil, the purpose or effect of which was to increase the amount of consideration received by Gulf in the controlled crude oil transaction or to evade Gulf's obligations under DOE's crude oil cost equalization program.

Subsequent to the 1985 Consent Order, ERA conducted a further investigation into the matters encompassed in paragraph 501(h), including a further audit of Gulf's foreign and domestic crude oil transactions during the Regulated Period. DOE's audit disclosed that during the period July 1, 1980 through October 31, 1980, Gulf made seven sales to Horizon of price controlled domestic crude oil and five sales to Horizon of foreign crude oil. DOE alleged that Gulf received excess consideration from Horizon for the domestic crude oil as a result of the above-market prices Gulf charged Horizon in its sales of the foreign crude oil.

These matters were brought to Chevron's attention. Chevron denied that the sales of foreign crude were in excess of an arm's length price, pointed out that the prices charged in sales of foreign crude were substantially equal to the DOE's transfer prices calculated pursuant to 10 CFR 212.84, and denied that Gulf had sold the controlled crude for more than the ceiling price. Chevron further denied that Gulf had received any unlawful benefit from these transactions. In this regard, ERA did not find that these transacitons (involving sales of price controlled oil which were linked to sales of price exempt oil at prices in excess of market) resulted in any evasion of Gulf's obligations under DOE's oil cost equalization (entitlements) program.

II. Determiantion of a Reasonable Settlement Amount

Chevron presented ERA with additional facts surrounding these transactions, including the allowable transportation costs incurred by Gulf. ERA evaluated this additional information and determined that the potential violation amount, including interest from the date of the alleged violations, was approximately $5 million.

During the negotiation of the proposed Consent Order, DOE considered these additional facts, as well as those policy issues and litigation risk factors present in all settlement negotiations.

The total amount of Chevron's potential liability resulting from these transactions could only be recovered by the government if, in litigation, all issues were resolved in the ERA's favor. The risks inherent in such a litigation make such an outcome uncertain.

In addition to the analysis of litigation risks, ERA took into account such factors as interest which would be added to possible adjudicated refund amounts, the number and complexity of the legal and factual issues, the time and expense required for the government to fully litigate every issue, as well as the operative principle necessary in most successful settlements—recognition by the parties of the need to reasonably compromise their respective interests and expectations. Based on all of these considerations, ERA concludes that the resolution of these matters for $3,000,000 in restitution is an appropriate settlement. ERA has made a preliminary determination that this settlement is in the public interest.

III. The Terms and Conditions of the Consent Order

Within thirty (30) days of the effective date of the Consent Order, Chevron will pay DOE the amount of $3,000,000, plus interest from the date of DOE's signing of the proposed Consent Order. ERA will petition OHA to implement a Special Refund Proceeding under the provisions of 10 CFR Part 205, Subpart V. If the Consent Order is not made effective by September 1, 1987, Chevron may withdraw from the proposed Consent Order.

The proposed Consent Order would supplement the 1985 Consent Order by resolving those matters excluded by paragraph 501(h) thereof. Specifically, Chevron and the DOE mutually release each other from issues and claims concerning the issue of the lawfulness under DOE regulations of the matters described in the proposed Consent Order.

IV. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this proposed Consent Order to the address given above. The ERA will consider all comments it receives by 4:30 p.m., local time, on the 30th day after the date of publication of this notice. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, DC, on this 26th day of June.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 87-15250 Filed 7-2-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-14-NG]

Order Granting Blanket Authorization To Import Natural Gas From Canada; American Central Gas Pipeline Corp;

AGENCY: Economic Regulatory Administration, department of energy.

ACTION: Notice of order granting blanket authorization to import natural gas from Canada.

SUMMARY: The economic Regulatory Adminstration (ERA) of the Department of Energy (DOE) gives notice that it has issued an Order granting American Central Gas Pipeline Corporation (American Central) blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 87-14-NG authorizes American Central to import up to 400 Bcf over a two-year period, beginning on the date of first delivery.

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, June 29, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-75251 Filed 7-2-87; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-20-NG]

Order Granting Blanket Authorization To Import Natural Gas From Canada; ANR Gathering Co.

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 ANR Gathering Company (ANR Gathering) blanket authorization to import natural gas from Canada. The order issued in ERA Docket No. 87-20-NG authorizes ANR Gathering to import up to 100 Bcf over a two-year period for sale in the domestic spot market beginning on the date of first delivery.

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, June 29, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-15252 Filed 7-2-87; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. PP-84]

Application by Central Maine Power Co. for a Presidential Permit

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of application by Central Maine Power Co. for a permit to construct, connect, operate and maintain electric transmission facilities at the international border between the United States and Canada.

SUMMARY: Central Maine Power Company (CMP) has applied to the Economic Regulatory Administration (ERA) for a Presidential permit to construct, connect, operate and maintain electric transmission facilities at the international border between the United States and Canada. Specifically CMP seeks permission for the following construction in the State of Maine: (1) A ± 450 kV direct current (dc) transmission line; (2) a dc/ac converter terminal; (3) a 345 kV alternating current (ac) transmission line; (4) expansion of an existing 345 kV sub-station; and (5) a possible ground electrode. The proposed transmission facilities are to be used to import up to 1000 megawatts (MW) of firm capacity from Hydro-Quebec.

CMP has made this application on behalf of a new transmission company (NEWCO) which will be a joint venture between CMP and Hydro-Quebec.

FOR FURTHER INFORMATION CONTACT:

Warren E. Williams, Economic Regulatory Administration (RG-22), Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9629

Lise Courtney M. Howe, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2900.

SUPPLEMENTARY INFORMATION: On June 8, 1987, CMP applied to ERA, pursuant to Executive Order 10485, for a Presidential permit to construct, connect, operate and maintain electric transmission facilities at the international border between the United States and Canada. This application has been docketed as PP-84. The components of the CMP project will consist of: (1) A ± 450 kV dc transmission line extending from the United States-Canadian border in the township of Bowmantown, Maine, to a dc/ac converter terminal located near the towns of Farmington and Jay, Maine; (2) a dc/ac converter terminal located near the towns of Farmington and Jay, Maine; (3) a 345 kV ac transmission line extending from the converter terminal to Surowiec Substation in the town of Pownal, Maine; (4) expansion of the 345 kV Surowiec Substation at Pownal, Maine; and (5) the possible construction of a ground electrode. The transmission line and converter terminal will be designed to transmit up to 1,000 megawatts ("MW") of electric power.

According to the applicant, the purpose of the proposed project is to provide the electric service customers of CMP, and other Maine energy supply companies with a new economic source of power. Even with increasing conservation, load management and cogeneration, CMP still expects to need 150 to 200 MW of additional capacity in 1992 or 1993, and as much as 500 to 700 MW by the year 2000. CMP expects electricity sales to increase by about 2.9% a year into the next century.

The proposed purchase by CMP would consist of three blocks of capacity. The first block would be 400 MW and would start in 1992. The second block would be 200 MW and would start in 1995, and the last 200 to 400 MW would start between 1999 and 2001. CMP plans to use about half of the first two blocks and most of the third block to meet its own needs. The remainder will be resold by CMP to other utilities in Maine and other New England states. Although the terms of the power purchase agreement are presented for public information, it should be noted that ERA does not approve or otherwise judge the terms of power purchase agreements and, furthermore, does not consider the economic merits of the commercial arrangement in deciding whether or not to grant a Presidential permit.

CMP has submitted this application on behalf of a new transmission company (NEWCO) which has yet to be formed. Under the terms of a Letter of Intent between CMP and Hydro-Quebec signed in February 1987, the new transmission company would be jointly owned by CMP and Hydro-Quebec respectively owning 70 percent and 30 percent of NEWCO's shares. If necessary, short-term financing of the projects's licensing and construction costs would be split on a 50-50 basis. All construction in Canada will be performed and financed solely by Hydro-Quebec or its subsidiary. The new transmission company will only perform work within the United States.

Any person desiring to be heard or to protest this application for a Presidential permit should file a petition to intervene or protest with the Economic Regulatory Administration, Room GA-033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with Sections 385.211 or 385.214 of the Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Any such petitions and protests should be filed on or before (thirty days after publication). Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application will be made available, upon request, for public inspection and copying at the Department of Energy's Freedom of Information Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC from 8:00 a.m. to 4:00 p.m., Monday through Friday.

Issued in Washington, DC, on June 24, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87-15172 Filed 7-2-87; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for clearance to the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in new or revised regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by DOE.

Each entry contains the following information: (1) The sponsor of the collection (the Department of Energy component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, or extension; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses annually; (11) Annual respondent burden, i.e., an estimate of the total number of hours needed to respond to the collection; and (12) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before August 5, 1987. Last notice issued Friday, June 19, 1987.

ADDRESS: Address comments to the Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments should also be addressed to Mr. Gross at the address below.)

For further information and copies of relevant materials contact: John Gross, Director, Data Collection Services Division (EI–73), Energy Information Administration, M.S. IH–023, Forrestal Building, 1000 Independence Ave., SW, Washington, DC 20585, (202) 586–2308.

SUPPLEMENTARY INFORMATION: If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this Notice, you should advise the OMB DOE Desk Officer of your intention to do so as soon as possible.

The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–15
3. 1902–0037
4. Interstate Pipeline's Annual Report of Gas Supply
5. Extension
6. Annually
7. Mandatory
8. Businesses or other for profit
9. 93 respondents
10. 93 responses
11. 56,637 hours
12. The data collected will be used by the Commission in performing its regulatory functions in gas supply certificate and deficiency cases, depreciation analyses, in rate cases and making determinations about new or increased sales of natural gas, the extension of facilities, or the abandonment of facilities and service.

Authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. 93–275, Federal Energy Administration Act of 1974 (15 U.S.C. 764(a), 764(b), 772(b), and 790a).

Issued in Washington, DC, June 29, 1987.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 87–15173 Filed 7–2–87; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. GP87–30–000]

Complaint; John J. Christmann, Complainant v. Northwest Pipeline Corp., Respondent

June 29, 1987.

Take notice that on February 24, 1987, J.J. Christmann, (Complainant) filed with the Commission pursuant to Rule 206 of the Commission's rules of practice and procedure a complaint against Northwest Pipeline Corporation (Northwest), requesting the Commission to find that Northwest incorrectly calculated overpayment monies under Order No. 93–A for Btu content for gas sold by Complainant to Northwest. According to Complainant, Northwest calculated and received overpayment monies, plus interest, from Complainant based on a "wet Btu" adjustment when, in fact, there should not have been an overpayment calculation for such gas.

Complainant states that Commission Order No. 356 provides that the maximum lawful price prescribed by the Natural Gas Policy Act (NGPA) shall apply to Btu's contained in a standard cubic foot of gas saturated with water vapor at 60 degrees F. under a pressure equal to 30.00 inches of mercury. However, the Commission stated that it would allow contractually authorized Btu heat adjustments so long as these adjustments do not raise the price above the maximum lawful price. Complainant asserts that when the price of its gas fell below the maximum lawful price, Northwest incorrectly calculated the Btu overpayment adjustment based on a "wet Btu" method. Such adjustment should have continued at the "dry Btu" factor as provided for in their contract provision, according to Complainant.

Any person desiring to be heard or to protest this complaint should file a motion to intervene or protest in accordance with Rule 211 and 214 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, not later than 30 days after publication of this notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of the Petition filed in this proceeding are on file with the Commission and available for public inspection. Answers to the complaint are due within the same time period.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–15193 Filed 7–2–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI87–705–000]

Application; Conoco Inc.

June 29, 1987

Take notice that on June 16, 1987, Conoco Inc. (Conoco), of P.O. Box 2197, CH–1134, Houston, Texas 77252, filed an application pursuant to sections 4 and 7 of the Natural Gas Act [15 U.S.C. 717(c) and 717(f)] and Part 157 of the Federal Energy Regulatory Commission's regulations, for a blanket certificate of public convenience and necessity authorizing sales of producer reservation gas in interstate commerce with pregranted abandonment of such sales.

In June 1976 Conoco and Tennessee Gas Pipeline Company (Tennessee) entered into a Gas Purchase and Sales Agreement (Conoco's Rate Schedule No.

430 [1]) whereby Conoco committed to Tennessee one-half (½) of all gas produced from Conoco's interest in certain portions of the West Cameron 66 Field Area, Offshore Louisiana, and retained the remaining one-half (½) as Conoco's reservation gas. Those reserves committed to Tennessee by said agreement have subsequently depleted and abandonment was granted by the Commission in Docket No. CI76–629–006 issued February 28, 1984.

In September 1983 Conoco and Tennessee entered into a second Gas Purchase and Sales Agreement (Conoco's Rate Schedule No. 490 [2]) whereby Conoco committed to Tennessee 25% of the reserves which Conoco had previously retained for its own use under the 1976 Agreement. Conoco continues to retain for its own use those reserves not committed to Tennessee under either the 1976 Agreement or the 1983 Agreement.

Conoco desires to make its retained reservation gas available to interstate commerce on a market demand basis. Accordingly, Conoco seeks a Blanket Sales Certificate with Pregranted Abandonment to allow such gas to be sold and delivered to any purchaser at terms and conditions favorable to Conoco. Conoco also requests waiver of the Commission's requirements to file and maintain rate schedules with regard to this gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 14, 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 in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–15194 Filed 7–2–87; 8:45 am]

BILLING CODE 6717–01–M

[1] Issued in Docket No. CI76–629–000.

[2] Issued in Docket No. CI84–47–000 on January 6, 1984.

[Docket No. CI87–702–000]

Application; KOGAS, Inc.

June 29, 1987.

Take notice that on June 15, 1987, KOGAS, Inc. (KOGAS), of 333 Clay Street, Suite 1300, Houston, Texas 77002, filed an application pursuant to sections 4 and 7 of the Natural Gas Act (NGA), and Part 157 of the Regulations of the Federal Energy Regulatory Commission (Commission), for a blanket certificate of public convenience and necessity. KOGAS requests certificate authorization for (1) sales for resale of natural gas in interstate commerce, without restrictions, and (3) sales for resale of certain natural gas in interestate Commerce, without restriction, of sources or markets, by KOGAS, (2) sales of certain natural gas by others to KOGAS for resale in interstate commerce, without market restriction, by roducers through KOGAS acting as thier agent. KOGAS also seeks pregranted abandonment of all sales for resale for which sales certificate autthority is sought. Finally, KOGAS requests that the Commission declare in its order issuing the authorizations requested that the Commission's NGA jurisdiction over the activities and operations of KOGAS is limited to the transactions for which authorization is sought in its Application. KOGAS requests that the term of the sales authorization requested by unlimited or otherwise coextensive with the gas supply but in no case should the term expire prior to March 31, 1988.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 14, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petiton 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 in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–15195 Filed 7–2–87; 8:45 am]

BILLING CODE 6711–01–M

[Docket No. GP87–44–000]

Complaint; J.C. Thompson, Complainant v. Northwest Pipeline Corporation, Respondent

June 29, 1987.

Take notice that on April 22, 1987, J.C. Thompson, (Complainant) filed with the Commission pursuant to Rule 206 of the Commission's rules of practice and procedure a complaint against Northwest Pipeline Corporation (Northwest), requesting the Commission to find that under Order 93–A Northwest has incorrectly calculated overpayment moneys, for Btu content for gas sold by Complainant to Northwest. According to Complainant, Northwest calculated and received overpayment money, plus interest, from Complainant based on a "wet Btu" adjustment, when there should not have been an overpayment calculation for such gas.

Complainant states that Commission Order 356 provides that the maximum lawful price prescribed by the NGPA shall apply to Btu's contained in a standard cubic foot of gas saturated with water vapor of 60 degrees F. under a pressure equal to 30.00 inches of mercury. However, the Commission stated that it would allow contractually authorized Btu heat adjustments so long as these adjustments do not raise the price above the maximum lawful price. Complainant asserts that when the price of its gas fell below the maximum lawful price, Northwest incorrectly calculated an overpayment amount plus interest from March 1, 1983, based on a "wet Btu" adjustment when in fact such adjustment should have continued at the "dry Btu" factor as provided for in their contract provision.

Any person desiring to be heard or to protest this complaint should file a motion to intervene or protest in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426, not later than 30 days after publication of this notice in the **Federal Register.** All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of the petition filed in this proceeding are on file with the commission and available for public

inspection. Answers to the complaint are due within the same time period.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15196 Filed 7-2-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI86-375-001 and CI86-408-001]

Application To Amend Blanket Limited-Term Abandonment and Blanket Limited-Term Certificate With Pregranted Abandonment Filed on Behalf of Producer-Suppliers; Trunkline Gas Co.

June 29, 1987.

Take notice that on June 15, 1987, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed on behalf of its producer-suppliers applications pursuant to Sections 7(b) and 7(c) of the Natural Gas Act and the regulations thereunder for amendment of the orders issued in Docket Nos. CI86-375-000 and CI86-408-000 which previously authorized through October 31, 1987, temporary abandonment of sales and issuance of a limited-term certificate, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

Specifically, by the applications Trunkline requests Commission authorization to extend the effective date of the authorizations previously granted in these dockets to October 31, 1988. Trunkline also requests that all vintages of gas be made eligible for such release.

Accordingly, any person desiring to be heard or to make any protest with reference to said applications should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, it will be unnecessary for Trunkline to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15197 Filed 7-2-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-706-000]

Application; Union Exploration Partners, Ltd.

Issued: June 29, 1987.

Take notice that on June 16, 1987, Union Exploration Partners, Ltd., by Union Oil Company of California, Managing General Partner, ("UXP") filed an application for limited-term blanket authorization to sell on the open market natural gas produced from UXP's interest in High Island 389; High Island 595/596, Vermilion Blk. 67 # 2; West Cameron 279 # 1; Matagorda 701 Unit; Matagorda 527 Unit; Vermilion 35/36 # 5; West Cameron 593 # A5; West Cameron 594 # A6; East Cameron Blk. 38 # 5, and East Breaks 160. This gas qualifies as NGPA Section 102(d) gas. UXP also requests an order for pre-granted abandonment of any sales made pursuant to the authority above. UXP additionally requests waiver of any filing and reporting requirements which may be inconsistent with the authority sought under the above application.

In its application, UXP alleges that it has been unable to enter into any long-term contracts for the sale of natural gas from its interest in the above-listed fields.

UXP specifically requests authority to sell up to 67 million cubic feet per day of natural gas produced from its interest in the fields for a limited term of one-year without geographic limitation. UXP states that all the gas in question would be sold for resale in the spot market at competitive, market-sensitive prices, not to exceed the applicable maximum lawful price. Waiver of filing and reporting requirements inconsistent with this limited-term authority and pre-granted abandonment is sought in order to make sales possible under said authority. UXP asserts the application is consistent with prior precedents, with the Commission's goals as enunciated in Order No. 436 *et al.*, and is in the public interest.

Any person desiring to be heard or protest said application should on or before July 14, 1987, file with the Federal Energy Regulatory Commission, 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 385.211-385.214). 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 must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15198 Filed 7-2-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-703-000]

Application; Western Kentucky Gas Resources Company d/b/a NRG CORP.

June 29, 1987.

Take notice that on June 15, 1987, Western Kentucky Gas Resources Company d/b/a NRG CORP. (NRG), filed an application requesting authorization to make sales in interstate commerce for resale of natural gas which is dedicated to interstate commerce. By its application, NRG also requests authority to make sales in interstate commerce for resale of natural gas not previously sold in the interstate gas market. NRG requests blanket authorization for itself and for the producers from whom it purchases gas or for whom it acts as agent in the sale of gas, (1) to make self-implementing sales for resale in interstate commerce of gas currently subject to the jurisdiction of the Federal Energy Regulatory Commission (Commission) under the Natural Gas Act (NGA), without market restriction and regardless of classification under the Natural Gas Policy Act and (2) to abandon any such sale for resale in interstate commerce pursuant to pregranted abandonment authorization.

NRG states that the certificate authority it seeks, if granted, will enable NRG to make sales for resale of gas to all customers who have the ability to buy gas in the spot market, and also enable NRG to act as agent for producers who wish to sell gas which currently is subject to NGA jurisdiction.

NRG requests that the term of the requested authorization be limited only by the term of any pregranted certificate (or limited-term abandonment) authorization of the producer who sells gas to NRG or for whom NRG acts as an agent in the sale of gas in a particular transaction. Should the Commission reject NRG's requested term of authorization, NRG requests that it be granted authority for a term and under

conditions commensurate with that afforded others (at least until March 31, 1988, as per *Entrade Corp., et al.*, 38 FERC ¶ 61,344 (1987)).

NRG states that the spot market is a critical element in the Commission's effort to create an efficient and competitive open market for the gas industry. To fully participate and contribute to this market, NRG states that it requires the authority requested in the instant application. NRG submits that this requested authority is consistent with the goals and policies of the Commission and in the public convenience and necessity.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 14, 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 in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15199 Filed 7-2-87; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 9098-001, et al.]

Surrender of Preliminary Permits; Bangor Hydro-Electric Co., et al.

June 29, 1987.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Bangor Hydro-Electric Company

[Project No. 9098-001]

Take notice that the Bangor Hydro-Electric Company, permittee for the Winn Project No. 9098 located on the Penobscot River in Penobscot County, Maine has requested that its preliminary permit be terminated. The preliminary permit was issued on November 27, 1985, and would have expired on October 31, 1988. The permittee states that analysis of the Winn Project did not indicate feasibility for development.

The permittee filed the request on May 29, 1987.

2. Mt. Storm Hydropower Associates

[Project No. 8431-002]

Take notice that Mt. Storm Hydropower Associates, permittee for the Mt. Storm Project No. 8431, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8431 was issued on December 13, 1985, and would have expired on November 30, 1988. The project would have been located on the Stony River in Grant County, WV.

The permittee filed the request on June 17, 1987.

Standard Paragraph

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-15256 Filed 7-2-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. FA87-62-000 et al.]

Electric Rate and Corporate Regulation Filings; Boston Edison Co., et al.

June 30, 1987.

Take notice that the following filings have been made with the Commission:

1. Boston Edison Company

[Docket No. FA87-62-000]

Take notice that on June 23, 1987, Boston Edison Company (Company) tendered for filing a document that advises the Commission that the Company has included in its wholesale fuel adjustment clause (FAC) without prior Commission approval certain spent nuclear fuel disposal cost (SNFDC) which were billed to it by Yankee Atomic Electric Company (Mass. Yankee) and Connecticut Yankee Atomic Power Company (Conn. Yankee). Boston Edison is an equity owner in Mass. Yankee and Conn. Yankee and receives power from them under rate schedules on file with the Commission; the Company passed through its wholesale FAC amounts billed to it under those rate schedules by Mass. Yankee and Conn. Yankee for pre-April 7, 1983 SNFDC.

Comment date: July 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Central Maine Power

[Docket No. FA87-67-000]

Take notice that on June 23, 1987, Central Maine Power tendered for filing a proposed settlement to resolve a contested accounting matter. At issue is the Company's collection of spent nuclear fuel disposal costs (SNFDC) associated with fuel burned prior to April 7, 1983, through its fuel adjustment clause (FAC) without prior Commission approval. The exhibits and schedules attached to this filing demonstrate that the Company did not double-recover SNFDC by including the amounts in base rates as well as in its FAC.

Comment date: July 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Connecticut Light and Power Company

[Docket No. FA87-65-000]

Take notice that on June 23, 1987, Connecticut Light and Power Company (CL&P) tendered for filing an Offer of Settlement in response to the Commission's decision in *Iowa-Illinois Gas & Electric Company*, 39 FERC ¶ 61,055 (1987), wherein the Commission invited utilities that have included spent nuclear fuel disposal costs (SNFDC) in their wholesale fuel adjustment clauses, without explicit prior FERC approval, to propose a settlement to resolve, "without the need to resort to extensive and costly litigation" cases of technical noncompliance with the Commission's fuel clause regulations, 18 CFR 35.14.

Copies of the filing were served upon the Company's jurisdictional customers and the Connecticut Department of Public Utility Control.

Comment date: July 13, 1987, in accordance with Standard Paragraph E at the end of this document.

4. Consumers Power Company

[Docket No. FA87-64-000]

Take notice that on June 23, 1987, Consumers Power Company (Consumers Power) tendered for filing pursuant to Rule 602 of the Commission's Rules of Practice and Procedure (Part 385), an executed Offer of Settlement, together with its Exhibits 1 and 2. The Offer of Settlement would resolve all issues in the above Docket and is submitted in response to the Commission's statement of policy in its April 24, 1987 Order in

Iowa-Illinois Gas and Electric Company, 39 FERC ¶ 61,055.

Comment date: July 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Georgia Power Company

[Docket No. FA87–60–000]

Take notice that on June 16, 1987, Georgia Power Company tendered for filing an Offer of Settlement which would dispose of all issues related to Georgia Power's accounting and billing for Spent Nuclear Fuel Disposal Costs (SNFDC).

Georgia Power states that it has collected the right amounts of SNFDC from the right customers under its wholesale electric tariffs (Original Volumes No. 1 and No. 2), but the Company concedes that it had not received specific, express approval to collect such amounts prior to February 1, 1983. The Offer of Settlement purports to satisfy the four-part test adopted by the Commission in *Iowa-Illinois Gas and Electric Company*, Order Approving Uncontested Settlement, 39 FERC ¶ 61,055 (1987).

Comment date: July 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Jersey Central Power & Light Company

[Docket No. FA87–61–000]

Take notice that on June 22, 1987, Jersey Central Power & Light Company (Company) tendered for filing pursuant to the Report Summarizing the Results of the Examination issued by the Division of Audits dated May 15, 1987 a document that explains the ratemaking and accounting utilized by the Company for spent fuel.

The document supports the fact that the Company has never double-recovered spent fuel costs, has reduced its rate base for amounts accumulated prior to payment and has not overcollected such costs.

Comment date: July 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Service

[Docket No. FA87–68–000]

Take notice that on June 23, 1987, New England Power Service (NEP) tendered for filing pursuant to the Commission's order in *Iowa-Illinois Gas and Electric Company*, Docket No. FA84–46–001, 39 FERC ¶ 61,055, issued on April 24, 1987, an Offer of Settlement for the final resolution of its previous rate treatment for collections of estimated spent nuclear fuel disposal costs (SNFDC).

Copies of this filing have been sent to each of NEP's Primary Service for Resale customers and the state regulatory commissions of Massachusetts, New Hampshire, Rhode Island and Vermont and to the Attorneys General of Massachusetts and Rhode Island.

Comment date: July 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Pacific Gas and Electric Company

[Docket No. FA87–69–000]

Take notice that on June 24, 1987, Pacific Gas and Electric Company (PGandE) tendered for filing a proposed settlement which advises the Commission that PGandE satisfies the four-part test as described in the "Order Approving Uncontested Settlement," issued April 24, 1987 in *Iowa-Illinois Gas and Electric Company*, Docket No. FA84–46–001, 39 FERC ¶ 61,055 (1987). The four-part test pertains to a public utility's collection of Spent Nuclear Fuel Disposal Costs (SNFDC) from its wholesale customers and payment of SNFDC to the Department of Energy.

PGandE also requests waivers of:

- 18 CFR 35.14, so that PGandE may continue to collect SNFDC through the Fuel Adjustment Clause.
- The filing date because the filing is technically one day later than the sixty days specified in the above-referenced order.

Comment date: July 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Virginia Electric and Power Company

[Docket No. FA87–63–000]

Take notice that on June 22, 1987, Virginia Electric and Power Company tendered for filing pursuant to Rule 602 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.602, and to the Order Approving Uncontested Settlement in *Iowa-Illinois Gas and Electric Company*, Docket No. FA84–46–001, 39 FERC ¶ 61,055 (1987), an Offer of Settlement that would (1) resolve one of the issues raised in connection with an examination of the Company's books and records for the period from January 1, 1982 through December 31, 1985 and (2) clarify and uncertainty with respect to the Company's treatment of the Department of Energy (DOE) charge for spent nuclear fuel disposal costs (SNFDC).

Comment date: July 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

10. Western Massachusetts Electric Company

[Docket No. FA87–66–000]

Take notice that on June 23, 1987, Western Massachusetts Electric Company (WMECO) tendered for filing an Offer of Settlement in response to the Commission's decision in *Iowa-Illinois Gas & Electric Company*, 39 FERC ¶ 61,055 (1987), wherein the Commission invited utilities that have included spent nuclear fuel disposal costs (SNFDC) in their wholesale fuel adjustment clauses, without explicit prior FERC approval, to propose a settlement to resolve, "without the need to resport to extensive and costly litigation" cases of technical noncompliance with the Commission's fuel clause regulations, 18 CFR 35.14.

Copies of the filing were served upon the Company's jurisdictional customers, the Massachusetts Department of Public Utilities and the Connecticut Department of Public Utility Control.

Comment date: July 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in 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. 87–15254 Filed 7–2–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER80–569–003 et al.]

Electric Rate and Corporate Regulation Filings; Yankee Atomic Electric Co., et al.

June 29, 1987.

Take notice that the following filings have been made with the Commission:

1. Yankee Atomic Electric Company

[Docket No. ER80-569-003]

Take notice that on June 24, 1987, Yankee Atomic Electric Company (Yankee) tendered for filing a Refund Report that effectuates the terms of an Offer of Settlement approved by the Commission on May 28, 1981.

Yankee states that the appropriate refunds have been reflected as credits to the December 1986 and May 1987 Power Bills to its customers.

Comment date: July 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Central Louisiana Electric Company, Inc.

[Docket No. ER87-510-000]

Take notice that on June 24, 1987, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing a copy of an executed contract for the sale of Special Energy by CLECO to the City of Alexandria, Louisiana.

CLECO requests an effective date of June 1, 1987 and therefore requests waiver of the Commission's notice requirements.

Comment date: July 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. The Cities of Marshall, Blue Earth, Mountain Lake, St. James, Sauk Centre, all in Minnesota and Hillsboro, ND v. Northern States Power Company (Minn.)

[Docket No. EL87-45-000]

Take notice that on June 10, 1987, the Cities of Marshall, Blue Earth, Mountain Lake, St. James, Sauk Centre, all in Minnesota and Hillsboro, ND tendered for filing pursuant to Rule 206 of the Commission's Rules of Practice and Procedure and pursuant to the Settlement Agreement in Docket No. ER86-101-001, a complaint and prayer for relief regarding certain terms of the proposed contract for wheeling service to be provided by Northern States Power Company (Minn.)

Comment date: July 29, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Pennsylvania Power & Light Company

[Docket No. EL87-44-000]

Take notice that on June 9, 1987, Pennsylvania Power & Light Company tendered for filing a Complaint by UGI Corporation as a precautionary measure in case the Commission denies UGI's motion filed June 9 requesting the Commission to clarify its order of June 3, 1987 in Docket No. ER78-71-002.

Comment date: July 29, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in 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. 87-15255 Filed 7-2-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF87-497-000, et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; TBG COGEN, et al.

Comment date: Thirty days from publication in the **Federal Register** in accordance with Standard Paragraph E at the end of this notice.

June 30, 1987.

Take notice that the following filings have been made with the Commission.

1. TBG COGEN

[Docket No. QF87-497-000]

On June 22, 1987, TBG COGEN (Applicant), c/o General Electric Company, One River Road, Building 2, 7th floor, Schenectady, New York 12345 submitted for filing an application for certifcation of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located on the premises of the Grumman Aerospace Company in Bethpage, New York. The facility will consist of two combustion turbine generators, two heat recovery steam generators equipped for supplementary firing and an extraction/condensing steam turbine generator. Thermal energy recovered from the facility will be utilized for process by Grumman Aerospace. The net electric power production capacity of the facility will be 49,900 kW. The primary energy source for the facility will be natural gas, with No. 2 fuel oil as back-up. Installation is scheduled to begin in November 1987.

2. Parke-Davis Division of Warner-Lambert Company

[Docket No. QF87-431-000]

On June 2, 1987, Parke-Davis, Division of Warner-Lambert (Applicant), of 870 Parkdale Road, Rochester, Michigan 48063 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located in Rochester, Michigan. The facility consists of a combustion turbine generator and a heat recovery steam generator equipped for supplementary firing. Thermal energy recovered from the facility is used on-site for plant operations. The primary energy source is natural gas. The electric power production of the facility is 3.1 MW. The construction of the facility began in October 1985.

3. American Bituminous Power Partners, L.P.—Grant Town Facility

[Docket No. QF87-494-000]

On June 19, 1987, American Bituminous Power Partners, L.P. (Applicant), of 33 Rock Hill Road, Bala Cynwyd, Pennsylvania 19004-2010 submitted for filing an application for certification of a facility as a qualifying small production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located approximately 0.5 miles east of Grant Town in Marion County, West Virginia. The facility will consist of two or more fluidized bed combustion boilers, an extraction/condensing steam turbine generator, and related auxiliary equipment. Applicant states that the primary energy source of the facility will be "waste" in the form of bituminous coal refuse. The net electric power production capacity of the facility will be 80 megawatts.

4. LTV Steel Company, Inc.

[Docket No. QF87-420-000]

On May 13, 1987, LTV Steel Company, Inc. (Applicant), of 25 Prospect Avenue, NW., Cleveland, Ohio 44115 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207

of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located at the Chicago Works of LTV Steel Company, Inc., 11600 South Burley Avenue, Chicago, Illinois 60617. The facility will consist of a turbogenerator driven by steam. Applicant states that the primary energy source of the facility will be "waste" in the form of coke oven gas. The net electric power production capacity of the facility will be 9.5 megawatts.

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 served 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. 87-15257 Filed 7-2-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces proposed procedures for disbursement of $1,800,000 (plus accrued interest) obtained pursuant to a consent order between the DOE and Suburban Propane Gas Corporation. The funds will be distributed to refund applicants who purchased propane, butane, and natural gasoline from Suburban entities, including Suburban's Eastern Division, NGL Department, VanGas, and Exploration Division, during the period November 1973 through October 1978 (the consent order period).

DATE AND ADDRESS: Comments must be filed on or before August 5, 1987 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Comments should be filed in duplicate and display a conspicuous reference to Case Number KEF-0038.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth the procedures that the DOE has tentatively formulated to distribute monies obtained from Suburban Propane Gas Corporation to settle possible pricing violations with respect to the firm's sales of propane, butane, and natural gasoline (the covered products) during the consent order period. Under the terms of the consent order, Suburban remitted $1,800,000 which is being held in an interest-bearing escrow account pending determination of its proper distribution.

We propose to distribute these funds in two stages. In the first stage, we will accept claims from identifiable purchasers of the covered products who may have been injured by Suburban's pricing practices during the consent order period. The specific requirements which an applicant must meet in order to receive a refund are set out in section II of the Proposed Decision. Claimants who meet these specific requirements will be eligible to receive refunds based on the number of gallons of covered products which they purchased from Suburban. If any funds remain after meritorious claims are paid in the first stage, they may be used for indirect restitution in accordance with the Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. No. 99-509, 1 Fed. Energy Guidelines § 11,702.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments must be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: June 26, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

June 26, 1987.

Name of Firm: Suburban Propane Gas Corporation

Date of Filing: May 21, 1986

Case Number: KEF-0038

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals (OHA) to formulate and implement procedures for the distribution of funds obtained by the DOE as a result of the agency's enforcement of the Mandatory Petroleum Price and Allocation Regulations. *See* 10 CFR Part 205, Subpart V. Pursuant to the provisions of Subpart V, on May 21, 1986, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a Consent Order that it entered into with Suburban Propane Gas Corporation (Suburban). In its Petition, the ERA requests that the OHA establish special procedures to make refunds in order to remedy the effects of the alleged regulatory violations that were settled in the Suburban Consent Order.

I. Background

Suburban was engaged in the production, refining, and marketing of crude oil, refined petroleum products, and natural gas liquid products during the period of federal petroleum price controls, March 6, 1973 through January 27, 1981. It was therefore subject to the Mandatory Petroleum Price Regulations set forth at 6 CFR Part 150 and 10 CFR Part 212. The ERA conducted several extensive audits of Suburban's operations and, as a result of those audits, contended in the course of a number of administrative proceedings that Suburban and its subsidiaries had violated applicable DOE price regulations in the refining and marketing of petroleum products during the audit periods. [1] On March 21, 1986, the ERA

[1] A number of the disputes between the DOE and subsidiaries of Suburban have been resolved by different Consent Orders. In particular, on July 15, 1981, Suburban's refining entity, Plateau, Inc., entered into a Consent Order with the ERA that

Continued

entered into a consent order with Suburban (Consent Order No. 733V02010) that settled all issues regarding the firm's resales of propane, butane, and natural gasoline (hereinafter referred to collectively as "the covered products") during the period November 1, 1973 through October 31, 1978. The covered products were sold primarily through the following Suburban entities: Eastern Division; NGL Department; VanGas; and Exploration and Production Division. Pursuant to the terms of the consent order, Suburban deposited $1.8 million into an escrow account for distribution by the DOE through Subpart V.

With interest, the amount in the Suburban escrow account had grown to $1,924,773 as of May 31, 1987. This Proposed Decision concerns the distribution of the funds in the escrow account, plus the accrued interest.

II. Proposed Refund Procedures

We propose to implement a refund process in which purchasers of Suburban propane, butane, and natural gasoline will be provided an opportunity to submit refund applications to the OHA. [2] From our experience with Subpart V proceedings, we believe that the claimants in this proceeding will fall into the following categories: (1) Refiners, resellers, and retailers, and (2) firms, individuals, or organizations that were consumers (end-users). The covered products purchased by these claimants were purchased either directly from Suburban or from other firms in a chain of distribution leading back to Suburban. In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of Suburban propane, butane, or natural gasoline during the period November 1, 1973 through October 31, 1978 (the Consent Order period). If the product was not purchased directly from Suburban, the claimant must include a statement setting forth its reasons for maintaining that the product originated with Suburban.

In addition, a refiner, reseller or retailer that files a claim generally will be required to establish that it was injured by the alleged overcharges. To make this showing, a claimant will be required to show initially that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices. *See Office of Enforcement*, 10 DOE ¶ 85,029 at 88,125 (1982). The maintenance of a bank will not, however, automatically establish injury. *See, e.g., National Helium Corp./ Atlantic Richfield Company*, 11 DOE ¶ 85,257 (1984) and cases cited therein. In addition, a claimant in the oil industry must provide some further evidence of injury, such as a demonstration that the firm's purchases from Suburban placed the firm at a competitive price disadvantage. *See Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*); *see also Sid Richardson Carbon and Gasoline Company and Richardson Products Company/ Schupbach and Streitmatter Gas Company*, 14 DOE ¶ 85,186 (1986).

In addition to the general requirements outlined above, we propose to adopt certain presumptions. These presumptions are founded upon our experience in prior Subpart V proceedings and upon specific information concerning Suburban's regulated operations during the Consent Order period. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. *See* 10 CFR 205.282(e). The presumptions we propose to adopt in this proceeding will be used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient manner possible.

First, we will adopt a presumption that the alleged overcharges were dispersed equally among all sales of the covered products by Suburban during the Consent Order period and that refunds should therefore be made on a pro-rata or volumetric basis. *See, e.g., Amoco* at 88,198. In the absence of better information, such a volumetric refund presumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. *See generally* 10 CFR Part 212. We estimate that Suburban's sales of propane, butane, and natural gasoline during the settlement period totalled approximately 1,700,569,000 gallons.[3] This gallonage figure, when divided into the settlement amount of $1,800,000, yields a volumetric refund amount of $.001058 per gallon, exclusive of interest.[4] As in previous cases, we will establish a minimum refund amount of $15.00 for claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985).

In addition to the volumetric presumption, we will adopt a presumption that claimants seeking small refunds were injured by the alleged regulatory violations settled in the Suburban consent order. Under the small claims presumption, a reseller or retailer seeking a refund of $5,000 or less will not be required to submit any additional evidence of injury beyond establishing the volume of covered products it purchased during the settlement period. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984) and cases cited therein. This presumption is based on a number of considerations. As we have noted in many previous refund decisions, there may be considerable expense involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering evidence of injury to support a refund claim could exceed the expected refund. Failure to allow simplified application procedures for small claims could therefore deprive injured parties of the opportunity to obtain a refund. Furthermore, these smaller claimants did purchase covered products from Suburban and were in the chain of distribution where the alleged overcharges occurred. Finally, use of the small claims presumption is desirable from an administrative standpoint

settled all civil claims and disputes between the firm and the ERA. Similarly, on July 30, 1980, the ERA and VanGas, Inc., a wholly-owned subsidiary of Suburban that marketed propane, entered into a Consent Order that settled all claims and disputes arising from the DOE's audit of VanGas's operations during the period September 1, 1973 through October 31, 1977.

[2] Purchasers of covered products from VanGas may apply for refunds from the Suburban escrow account because the VanGas Consent Order only involved issues relating to VanGas's rental of propane tanks.

[3] This gallonage is based on information contained in the Suburban audit file.

[4] Because we recognize that the impact on an individual purchaser may have been greater than the volumetric amount, we will allow any purchaser to file a refund application based on a claim that it suffered a disproportionate share of the injury from Suburban's alleged overcharges. *See, e.g., Standard Oil Co. (Indiana)/Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984). In other words, the volumetric presumption will be rebuttable, as will all of the presumptions that we will adopt. *See Amoco* at 88,189.

because it allows the OHA to process a large number of routine refund claims quickly.

As in past cases, we will also adopt a presumption that regulated industries (such as public utilities) and agricultural cooperatives absorbed the alleged Suburban overcharges. These types of applicants will not have to submit any further evidence of injury in order to qualify for the full amount of volumetric refund based on purchase volumes that were used by themselves or sold to members. Any overcharges suffered by such firms would have been passed through to their customers by the regulatory bodies or agreements that control the prices they may charge. Similarly, any refunds they receive would automatically be passed through to their customers. Consequently, we will permit an entity of this type to receive a full volumetric refund, provided that it includes in its refund application a full explanation of the manner in which refunds will be passed through to its customers. *See Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982).

In addition to the presumptions outlined above, we will adopt a presumption that an end-user or ultimate consumer whose business is unrelated to the petroleum industry was injured by the alleged overcharges settled in the Consent Order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the Consent Order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For this reason, analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *Texas Oil & Gas Corp.*, 12 DOE at 88,209 and cases cited therein. We have therefore concluded that end-users of the Suburban products covered by the Consent Order need only document their purchase volumes from Suburban to make a sufficient showing that they were injured by the alleged overcharges.

Lastly, we propose to adopt a rebuttable presumption that a reseller or retailer that made only spot purchases from Suburban did not suffer economic injury as a result of those purchases. As we have previously stated, spot purchasers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases from a firm at increased prices unless they were able to pass through the full amount of the firm's selling price to their own customers. *See Office of Enforcement*, 8 DOE ¶ 82,597 at 85,396–97 (1981). We believe the same rationale holds true in the present case. Accordingly, a spot purchaser that files a claim should submit specific and detailed evidence to establish that it was unable to recover the increased prices it paid for Suburban petroleum products. *See AMOCO* at 88,200.

Applications for Refund should not be filed at this time. Detailed procedures for filing applications will be provided in a final Decision and Order. Before disposing of any of the funds received as a result of the Consent Order involved in this proceeding, we intend to publicize the distribution process to solicit comments on all aspects of the foregoing proposed Decision and Order from interested individuals and organizations. All comments must be filed within 30 days of publication of this Proposed Decision in the **Federal Register**.

In many previous Subpart V proceedings, the OHA has found that funds have remained after all first stage claims have been decided. On October 21, 1986, the President signed into law the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99–509, Title III of which contains the Petroleum Overcharge Distribution and Restitution Act of 1986 (hereinafter referred to as PODRA). Fed. Energy Guidelines ¶ 11,702. PODRA establishes certain procedures for the distribution of funds obtained by the DOE as a result of the agency's enforcement of the Mandatory Petroleum Price and Allocation regulations. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make it available to state governments for use in four energy conservation programs. PODRA, section 3003(c). The Secretary has delegated these responsibilities to the OHA, and any funds in the Suburban consent order escrow account that the OHA determines will not be needed to effect direct restitution to injured Suburban customers will be distributed in accordance with the provisions of PODRA.

It Is Therefore Ordered That

The refund amount remitted to the Department of Energy by the Suburban Propane Gas Corporation pursuant to the Consent Order executed on March 21, 1986 will be distributed in accordance with the foregoing Decision.

[FR Doc. 87–15171 Filed 7–2–87; 8:45 am]

BILLING CODE 6450–01–M

Western Area Power Administration

Proposal To Establish Additional Designated Federal Points of Delivery for Power From the Salt Lake City Area Integrated Projects

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Notice of intent to establish additional designated Federal points of delivery.

SUMMARY: On February 7, 1986, Western published the Final Post-1989 General Power Marketing Criteria (Criteria), 51 FR 4844, for the Salt Lake City Area which included the Colorado River Storage Project.

Listed in part III, section D thereof, Delivery Conditions, are the designated or equivalent Federal points of delivery, tap points, and voltages at which nominal delivery of Colorado River Storage Project power will be available.

Western proposes to amend the Criteria by adding the following designated Federal points of delivery and voltages in the States of Arizona, Colorado, and Utah, respectively, at which nominal delivery will be available:

Powell, Arizona—69–kV
Gunnison, Colorado—115–kV or 12.5–kV
Tyzack, Utah—138–kV

DATES: Written comments on the proposal are due in the office of the Area Manager at the address given below no later than 30 days from the publication of this notice in the **Federal Register**. This proposal will become final 30 days from its publication in the **Federal Register** unless Western publishes another **Federal Register** notice reflecting any differences between this original proposal and any amended final determination.

FOR FURTHER INFORMATION CONTACT: Mr. Lloyd Greiner, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, (801) 524–5493.

SUPPLEMENTARY INFORMATION: The Powell delivery point is located approximately 5 miles southeast of Glen Canyon Dam where Western's 69–kV line terminates at the city of Page's Powell Substation near Page, Arizona. The Gunnison delivery points consist of Western's facilities at the Gunnison main substation delivered at 115–kV as

described in the Criteria at 51 FR 4867, published February 7, 1986, and the proposed 12.5-kV delivery point, which is located in the town of Gunnison, Colorado. The Tyzack delivery point is located 10 miles northeast of Vernal, Utah.

Western proposes to establish these additional designated Federal points of delivery for the benefit of the Central Utah Project and the Colorado River Storage Project administered by the United States.

Issued at Golden, Colorado, June 25, 1987.

William H. Clagett,

Administrator.

[FR Doc. 87-15174 Filed 7-2-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51682; FRL-3228-7]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-five such PMNs and provides a summary of each.

DATES: Close of Review Period:

P 87-1295, 87-1296, 87-1297, 87-1298 and 87-1299—September 16, 1987.

P 87-1300, 87-1301, 87-1302, 87-1303, 87-1304 and 87-1305—September 19, 1987.

P 87-1306, 87-1307, 87-1308, 87-1309, 87-1311, 87-1312 and 87-1313—September 20, 1987.

P 87-1314, 87-1315, 87-1316, 87-1317, 87-1318, 87-1319, 87-1320, 87-1321, 87-1322 and 87-1323—September 21, 1987.

P 87-1324, 87-1325, 87-1326, 87-1327, 87-1328, 87-1329 and 87-1330—September 22, 1987.

Written comments by:

P 87-1295, 87-1296, 87-1297, 87-1298 and 87-1299—August 17, 1987.

P 87-1300, 87-1301, 87-1302, 87-1303, 87-1304 and 87-1305—August 20, 1987.

P 87-1306, 87-1307, 87-1308, 87-1309, 87-1311, 87-1312 and 87-1313—August 21, 1987.

P 87-1314, 87-1315, 87-1316, 87-1317, 87-1318, 87-1319, 87-1320, 87-1321, 87-1322 and 87-1323—August 22, 1987.

P 87-1324, 87-1325, 87-1326, 87-1327, 87-1328, 87-1329 and 87-1330—August 23, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS-51682]" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M Street, SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the PMNs received by EPA. The complete non-confidential PMNs are available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 87-1295

Manufacturer. Owens-Corning Fiberglas Corporation.

Chemical. (G) Reaction product of epoxy resin and unsaturated acid.

Use/Production. (S) Molding resin. Prod. range: Confidential.

P 87-1296

Importer. Confidential.

Chemical. (G) Melamine-cured acrylate resin.

Use/Import. (G) Commercial and consumer open non-dispersive use. Import range: Confidential.

P 87-1297

Manufacturer. Confidential.

Chemical. (G) Alkoxysilane.

Use/Production. (G) Hydrophobic treatment. Prod. range: Confidential.

P 87-1298

Manufacturer. Confidential.

Chemical. (G) Alkoxysilane.

Use/Production. (G) Hydrophobic treatment. Prod. range: Confidential.

P 87-1299

Manufacturer. Confidential.

Chemical. (G) Alkoxysilane.

Use/Production. (G) Hydrophobic treatment. Prod. range: Confidential.

P 87-1300

Manufacturer. E.I. du Pont de Nemours & Company, Inc.

Chemical. (G) Lactone modified acrylic copolymer.

Use/Production. (G) Site-limited open, non-dispersive use. Prod. range: Confidential.

P 87-1301

Importer. Orient Chemical Corporation.

Chemical. (G) Polycondensate of formaldehyde with amines.

Use/Import. (S) Commercial toner for electrophotography. Import range: 3,000 to 5,000 kg/yr.

Toxicity Data. Ames test: Non-mutagenic.

P 87-1302

Manufacturer. Confidential.

Chemical. (G) Isobenzofuranone, 3-[4-diethylamino-2-hydroxyphenyl]-3-[2-methoxy-4-methyl-5-arylphenyl]-.

Use/Production. (G) Process intermediate. Prod. range: Confidential.

P 87-1303

Manufacturer. Confidential.

Chemical. (G) Benzenamine, N-(substituted phenyl)-2,4-dimethyl-.

Use/Production. (G) Site-limited process intermediate. Prod. range: Confidential.

P 87-1304

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Crosslinked ethylene interpolymer.

Use/Production. (S) Reinforced hose, tubing, convoluted bellows for automobiles, industrial seals and gaskets, weather stripping, wire and cable jackets, fuel line hose connectors and mechanical goods. Prod. range: Confidential.

P 87-1305

Manufacturer. E.I. dup Pont de Nemours & Company, Inc.

Chemical. (G) Crosslinked ethylene interpolymer.

Use/Production. (S) Reinforced hose, tubing, convoluted bellows for automobiles, industrial seals and gaskets, weather stripping, wire and cable jackets, fuel line hose connectors and mechanical goods. Prod. range: Confidential.

P 87-1306

Manufacturer. AZS Corporation.

Chemical. (G) Hexamethylene diglycidyl ether.

Use/Production. (S) Industrial and commercial reactive diluent in epoxy systems for use in miscellaneous coatings and adhesives. Prod. range: Confidential.

P 87-1307

Manufacturer. Confidential.
Chemical. (G) Epoxy alkyl diol.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 87-1308

Manufacturer. Confidential
Chemical. (G) Trisubstituted aniline.
Use/Production. (G) Film additive. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant; Eye—Non-irritant; Ames test: Negative.

P 87-1309

Manufacturer. Confidential
Chemical. (G) Alicyclic aliphatic polyester.
Use/Production. (G) Industrial dispersively used industrial coating. Prod. range: 30,000 to 300,000 kg/yr.

P 87-1311

Manufacturer. Confidential.
Chemical. (G) Sulfurized reaction product of mixed alkenes, vegetable oil and methyl ester of alkylene carboxylic acid.
Use/Production. (G) Site-limited and industrial lubricant additive. Prod. range: Confidential.

P 87-1312

Manufacturer. Confidential.
Chemical. (G) Mixed C_8–C_{10} dialkylhydrogenphosphate, tertiary alkyl amine salt.
Use/Production. (G) Lubricant additive. Prod. range: 15,000 kg/yr.

P 87-1313

Importer. Pacific Anchor Chemical Corporation.
Chemical. (G) Polymer containing 4-(1,1-dimethylethyl)phenol and 1,3-benzenedimethanamine.
Use/Import. (S) Curing agent for epoxy resin coating systems, putties, floor screens and concrete repair compounds. Import range: Confidential.

P 87-1314

Manufacturer. Confidential.
Chemical. (G) 4-nitro-4'-(3"-phenylamino-5"-substituted triazinyl) amino substituted stilbene.
Use/Production. (S) Site-limited intermediate for use in preparation of fluorescent brightener. Prod. range: Confidential.

P 87-1315

Manuracturer. Confidential.
Chemical. (G) 4-amino-4'-(3"-phenylamino-5"-substituted triazinyl) amino substituted stilbene.
Use/Production. (s) Site-limited intermediate for use in preparation of fluorescent brightener. Prod. range: Confidential.

P 87-1316

Manufacturer. Confidential.
Chemical. (G) 5-(3'-phenylamino-5-substituted triazinyl)amino substituted benzene.
Use/Production. (S) Site-limited intermediate for use in preparation of fluorescent brightener. Prod. range: Confidential.

P 87-1317

Manufacturer. Confidential.
Chemical. (G) 5-(3'-Phenylamino-5-substituted triazinyl)amino substituted benzene.
Use/Production. (S) Site-limited intermediate for use in preparation of fluorescent brightener. Prod. range: Confidential.

P 87-1318

Manufacturer. Boehme Filatex, Incorporated.
Chemical. (S) Isooctadecanol phosphate, potassium salt.
Use/Production. (G) Lubricant component for synthetic fibers. Prod. range: Confidential.

P 87-1319

Manufacturer. Boehme Filatex, Incorporated.
Chemical. (S) Isoctadecanol phosphate.
Use/Production. (G) Libricant component for sythetic fibers. Prod. range: Confidential.

P 87-1320

Importer. Lonza, Incorporated.
Chemical. (G) Chlorhexidine base.
Use/Import. (G) Germicide, surfactant. Import range: Confidential.

P 87-1321

Manufacturer. Confidential.
Chemical. (G) Disubstituted quinoline bisulfate.
Use/Production. (S) Site-limited agricultural chemical intermediate. Prod. range: Confidential.

P 87-1322

Importer. Confidential.
Chemical. (G) Substituted thioxotetrazole salt.
Use/Import. (G) Chemical intermediate. Import range: 1,300 to 2,600 kg/yr.

P 87-1323

Importer. Confidential.
Chemical. (G) Isoparaffin.
Use/Import. (G) Solvent. Import range: Confidential.
Toxicity Data. Acute oral: 46.4 ml/kg; Irritation: Eye—Non-irritant; Skin sensitization: Non-sensitizer.

P 87-1324

Manufacturer. Confidential.
Chemical. (G) Bicyclic tertiary alcohol.
Use/Production. (G) Highly dispersive use. Prod. range: Confidential.

P 87-1325

Manufacturer. Confidential.
Chemical. (G) Bicyclic olefin.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 87-1326

Manufacturer. Confidential.
Chemical. (G) Tricyclic epoxide.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 87-1327

Manufacturer. Confidential.
Chemical. (G) Bicyclic ketone.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 87-1328

Manufacturer. Confidential.
Chemical. (G) Bicyclic ketone.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 87-1329

Manufacturer. Confidential.
Chemical. (G) Nitroaromatic alkanoic acid, derivative.
Use/Production. (G) Industrial chemical intermediate. Prod. range: 3,600 to 28,000 kg/yr.

P 87-1330

Manufacturer. Confidential.
Chemical. (G) 1,4-Benzene dicarbonyl, polymer with bis (4-phenoxyphenyl)-methanone and substituted benzene.
Use/Production. (S) Industrial, commercial and consumer thermoplastic engineering resin for extrusion of fiber, film, wire, cable insulation, tubing and other products and for molding of connectors, valve seats, crimp devices, and other products.

Dated: June 29, 1987.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 87-15247 Filed 7-2-87; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59822; FRL-3228-8]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of eight such PMNs and provides the summary.

DATES: Close of Review Period:

Y 87-168, 87-169, 87-170, 87-171, 87-172, and 87-173—July 14, 1987.

Y 87-174 and 87-175—July 15, 1987.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm, E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 87-168

Manufacturer. Emery Chemicals.

Chemical. (S) Adipic acid, coconut caprylic/capric acid, 1,4 butanediol, propylene glycol.

Use/Production. (S) Industrial plasticizer for polyvinyl chloride resin. Prod. range: 200,000 to 500,000 kg/yr.

Y 87-169

Manufacturer. Emery Chemicals.

Chemical. (S) Pelargonic acid, adipic acid, 1,4 butanediol, propylene glycol.

Use/Production. (S) Industrial plasticizer for polyvinyl chloride resin. Prod. range: 200,000 to 500,000 kg/yr.

Y 87-170

Importer. MTC America, Incorporated.

Chemical. (S) Ethenylbenzene polymer with butyl 2-methyl-2-preopenoate, butyl 2-propenoate, octadecyl 2-methyl-2 propenoate and 2-methyl-2-propenoic acid.

Use/Import. (S) Consumer toner binder. Import range: Confidential.

Y 87-171

Importer. MTC America, Incorporated.

Chemical. (S) Ethenylbenzene polymer with butyl 2-methyl-2-propenoate, and butyl 2-propenoate.

Use/Import. (S) Consumer toner binder. Import range: Confidential.

Y 87-172

Importer. MTC America, Incorporated.

Chemical. (S) Ethenylbenzene, polymer with butyl 2-methyl-2-propenoate, octadecyl 2-methyl-2-propenoate and 2-methyl-2-propenoic acid.

Use/Import. (S) Consumer toner binder. Import range: Confidential.

Y 87-173

Importer. MTC America, Incorporated.

Chemical. (S) Styrene with methyl methacrylate, iso-butyl acrylate, 2-hydroxyethyl methacrylate and glycidyl methacrylate.

Use/Import. (S) Industrial powder coating. Import range: Confidential.

Y 87-174

Manufacturer. Confidential.

Chemical. (G) Acrylic modified epoxy ester.

Use/Production. (G) Industrial component for paper coating. Prod. range: 165,000 to 330,000 kg/yr.

Y 87-175

Manufacturer. Confidential.

Chemical. (G) Acrylic modified alkyd copolymer.

Use/Production. (G) Industrial component of mirror backing. Prod. range: 18,000 to 37,000 kg/yr.

Dated: June 29, 1987.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 87-15248 Filed 7-2-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3228-1]

Discharge of Pollutants in the Gulf of Mexico; Diesel Pill Monitoring Program Extension

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: When they issued a general permit for discharges from oil and gas operations on the outer continental shelf (OCS) of the Gulf of Mexico. EPA Regions IV and VI (the Regions) established the Diesel Pill Monitoring Program (DPMP) to gather data on industry ability to remove diesel spotting fluids used to free stuck pipe. The DPMP was to last for one year with a possible extension of up to one additional year. At the conclusion of the first year, the Regions are extending the DPMP until September 30, 1987.

EFFECTIVE DATE: The extension is effective July 2, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Caldwell, Water Permits Branch, EPA Region VI, Allied Bank Tower, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 655-7190.

SUPPLEMENTARY INFORMATION: The Regions regulate discharges from OCS drilling operations under general National Pollutant Discharge Elimination System Permit GMG280000 (the Permit) In part, the Permit prohibits the discharge of any drilling fluid containing diesel oil unless added as a "pill" which is removed, along with a buffer, before the discharge. To evaluate the effectiveness of this process, the Regions established a Diesel Pill Monitoring Program, under which OCS operators reporting particular data to EPA may discharge drilling fluids after diesel pill recovery without regard to end-of-well toxicities. Upon termination of the DPMP, Only fluids meeting the Pemit's toxicity limitation (or an alternate limitation assigned in accordance with the Permit's terms) may be discharged. The DPMP was to last for one year with a possible extension of up to one additional year. See 51 FR 24897, 24901 (July 9, 1986).

The DPMP data generated and considered to date indicate that the toxicity of drilling fluids increases with their diesel oil content, but that pill recovery techniques currently in use are capable of removing 70% or more of the diesel oil added as a pill. Although the data show little or no correlation between buffer size and residual diesel oil content, the Regions believe this may be due to operational variables which the DPMP's reporting requirements do

not reflect. It should be noted, however, that these prelimnary conclusions are based on incomplete data and, indeed, the DPMP's Oversight Committee has not yet issued a report. In any event, the DPMP as currently structured is approaching its limit for gathering relevant data.

Having considered the matter, the Regions are extending the DPMP until September 30, 1987. In the Regions' judgment, this relatively short extension should be sufficient to obtain as much useful data as the DPMP is capable of generating and will provide a transition period for OCS operators relying on the DPMP to make appropriate adjustments to their drilling operations.

Authority: 33 U.S.C. 1251, et seq.

Dated: June 25, 1987.

Richard Hoppers,
Acting Director, Water Management Division, EPA Region VI.

Bruce R. Barrett,
Director, Water Management Division, EPA Region IV.

[FR Doc. 87-15249 Filed 7-2-87; 8:45 am]
BILLING CODE 6560-50-M

[AAA-FRL-3228-6]

EPA Master List of Debarred, Suspended or Voluntarily Excluded Persons

AGENCY: Environmental Protection Agency.

ACTION: EPA master list of debarred, suspended, or voluntarily excluded persons.

SUMMARY: 40 CFR 32.400 requires the Director, Grants Administration Division, to publish in the **Federal Register** each calendar quarter the names of, and other information concerning, those parties debarred, suspended, or voluntarily excluded from participation in EPA assisted programs by EPA action under Part 32. Assistance (grant and cooperative agreement) recipients and contractors under EPA assistance awards may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment, or voluntary exclusion.

This short list contains the names of those persons who have been listed as a result of EPA actions only. It is provided for general informational purposes only and is not to be relied on in determining a person's current eligibility status. A comprehensive list, updated weekly, is available in each Regional Office. Inquires concerning the status of any individual, organization, or firm should be directed to EPA's Regional or Headquarters office for grants administration that normally serves you.

DATE: This short list is current as of June 22, 1987.

FOR FURTHER INFORMATION CONTACT: Frank Dawkins, of the EPA Compliance Branch, Grants Administration Division, at (202) 475-8025.

Corinne Wellish,
Acting Director, Grants Administration Division (PM-216).

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
A.F. Beil Electric Company, Inc. (Youngstown, OH)	85-0014-00	D	06-27-85	06-26-88	§ 32.200(a).
Altman, Larry L. (Charleston, SC)	85-0063-03	S	07-29-85	Open	§ 32.300(b).
American Recovery Co., Inc. (Glen Burnie, MD)	86-0011-00	D	08-20-86	08-19-89	§ 32.200 (f), (i).
Applied Science Distributors (Pensacola, FL)	87-0013-00	D	02-05-87	04-02-90	§ 32.200 (a), (i).
Averill, Ernest Jr. (Fort Myers, FL)	83-0066-06	D	12-02-83	10-29-88	§ 32.200(b).
Azzil Trucking Co., Inc. (Roslyn, NY)	85-0008-02	D	09-11-86	09-10-89	§ 32.200 (a), (b).
Barnum, James Charles (Utica, MI)	86-0010-01	D	12-10-85	12-09-88	§ 32.200(a).
Batzer Construction Co., Inc. (St. Cloud, MN)	85-0052-00	S	03-07-86	Open	§ 32.300(b).
Batzer, Bruce (St. Cloud, MN)	85-0052-01	S	03-07-86	Open	§ 32.300(b).
Batzer, Robert (St. Cloud, MN)	85-0052-02	S	03-07-86	Open	§ 32.300(b).
Beckham, Charles (Detroit, MI)	84-0030-02	D	02-24-86	07-30-89	§ 32.200 (a), (b).
BECO, Inc. (High Point, NC)	85-0017-01	VE	12-10-85	12-09-88	§ 32.200 (a), (3).
Bell, Bobby (Sulphur, LA)	85-0071-01	D	03-06-86	03-05-89	§ 32.200 (a), (b).
Bell, Edwin (Sulphur, LA)	85-0071-02	D	03-86-86	03-05-89	§ 32.200 (a), (b).
Blackwelder, Ray Martin (Concord, NC)	84-0011-01	D	06-27-85	06-26-88	§ 32.200(a).
Bowers, Darralyn (Detroit, MI)	84-0030-01	D	02-24-86	05-11-89	§ 32.200(a)(b).
Bridges, William D., Jr. (Wilmington, NC)	85-0069-01	D	04-09-86	04-08-89	§ 32.200(a).
Cannady, Nathaniel Ellis (Asheville, NC)	86-0047-01	D	03-18-86	07-15-89	§ 32.200(a)(i).
Carson, Charles (Grosse Point Woods, MI)	85-0066-00	D	03-18-86	04-25-89	§ 32.200(b).
Carson, E. Eugene (Statesville, NC)	85-0004-01	D	01-06-86	01-05-89	§ 32.200(a).
City Chemicals Company, Inc. (Orlando, FL)	86-0038-02	D	10-02-86	11-23-89	§ 32.200(a)(1).
City Environmental Services, Inc. (Orlando, FL)	86-0038-03	D	10-02-86	[1] 11-23-89	§ 32.200(a)(1).
City Fuel Oil Company (Orlando, FL)	86-0038-05	D	10-02-86	11-23-89	§ 32.200(a)(1).
City Industries, Inc. (Orlando, FL)	86-0038-01	D	10-02-86	11-23-89	§ 32.200(a)(1).
Commonwealth Companies Incorporated (Lincoln, NE)	86-0100-01	S	11-12-86	Open	§ 32.200(a)(1).
Commonwealth Electric Company, Inc. (Lincoln, NE)	86-0100-00	S	09-09-86	Open	§ 32.300(b).
Crane Creek Asphalt, Inc. (Owatonna, MN)	86-0024-00	VE	09-04-86	09-03-87	§ 32.200(i).
Croft, William A. (Madison, WI)	83-0047-00	D	08-20-84	08-19-87	§ 32.200(a).
Crolich, Peter V. (Mobile, AL)	87-0017-02	D	06-18-87	06-17-90	§ 32.200(a)(i).
Crossgrove, Richard (Pensacola, FL)	87-0013-01	D	02-05-87	04-02-90	§ 32.200(a)(i).
Cryer, John P. (Baton Rouge, LA)	85-0062-03	S	07-29-85	Open	§ 32.200(b).
Cummins Construction Company, Inc. (Enid, OK)	86-0069-00	S	09-08-86	Open	§ 32.300(b).
Cusenza, Sam (Ypsilanti, MI)	85-0024-02	D	02-24-86	04-02-89	§ 32.200 (a), (b).
Cuti, Vincent J., Jr. (Huntington, NY)	83-0040-03	D	04-30-85	04-29-88	§ 32.200(a).
Dellinger, Theodore C. (Monroe, NC)	84-0012-01	VE	03-12-85	03-11-88	§ 32.200(a).
Denson, David A. (Wilmington, NC)	86-0043-01	D	01-12-87	01-11-88	§ 32.200(a).
Domanski, Gary Henry (Utica, MI)	86-0010-02	D	12-10-85	12-09-88	§ 32.200(a).

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS—Continued

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
Driscoll, John William (Dundale, MD)	86-0011-02	D	10-15-86	10-14-89	§ 32.200 (f), (i).
Dykes, Lamar D. (Nederland, TX)	85-0071-03	D	03-06-86	03-05-89	§ 32.200 (a), (b).
Enmanco (Utica, MI)	86-0010-00	D	12-10-85	12-09-88	§ 32.200(a).
Environmental Management Corporation (Utica, MI)	86-0010-00	D	12-10-85	12-09-88	§ 32.200(a).
Environmental Technology of America, Inc. (Wilbraham, MA)	86-0071-00	D	02-05-87	02-04-90	§ 32.200(a).
Fields, Leroy (Pensacola, FL)	87-0013-02	D	02-05-87	04-02-90	§ 32.200(a).
Fischback & Moore, Inc. (Dallas, TX)	84-0023-00	D	01-15-86	10-19-87	§ 32.200(a).
Floyd D. Stuckey & Associate (Winfield, KS)	84-0028-00	D	08-26-85	08-25-88	§ 32.200(a).
Foley, Bancroft T. (Washington, DC)	86-0004-03	D	03-07-86	03-06-89	§ 32.200(a).
Franklin Wiring Co. (Youngstown, OH)	85-0044-00	D	09-04-85	09-03-88	§ 32.200(a)(3).
FSA Engineering Consultants (Winfield, KS)	84-0028-00	D	08-26-85	08-25-88	§ 32.200(a).
Geuther, Herbert G. (Philadelphia, PA)	86-0004-04	D	03-07-86	03-06-89	§ 32.200(a).
Graves, George William (Wilmington, NC)	85-0069-02	D	03-05-86	03-04-89	§ 32.200(a).
Greer, Arthur (Maitland, FL)	86-0038-00	D	10-02-86	11-23-89	§ 32.200.
Gross, William R. (Big Springs, TX)	86-0002-01	D	10-06-86	10-05-89	§ 32.200(a).
Hansen, Leonard A. (St. Peter, MN)	85-0019-02	D	09-26-85	09-25-88	§ 32.200(a)(3).
Herring, Donald W. (Wilson, NC)	83-0044-01	D	10-11-84	10-10-87	§ 32.200(a).
Hi-Way Surfacing, Inc. (Marshall, MN)	85-0053-00	D	12-17-85	12-16-88	§ 32.200(a)(3).
Hochreiter, Herbert (Roslyn, NY)	85-0008-01	D	09-11-86	09-10-89	§ 32.200 (a), (b).
Hodges Electric Company (Wilmington, NC)	85-0070-00	D	04-04-86	04-03-89	§ 32.200(a).
Hopper, Thomas G. (Bedford, MA)	86-0095-03	S	06-24-86	Open	§ 32.300(b).
Howard P. Foley, Company (Washington, DC)	86-0004-00	D	03-07-86	03-06-89	§ 32.200(a).
Hugo Schulz, Inc. (Lakefield, MN)	85-0047-00	D	05-01-86	04-30-89	§ 32.200(a).
Ingber, Brian (S. Fallsburg, NY)	86-0096-01	D	04-24-87	02-23-90	§ 32.200(a).
Insulation Speciality and Supply, Inc. (Cleveland, OH)	84-0025-00	D	10-04-84	10-03-87	§ 32.200(c)(i).
J.A. LaPorte, Inc. (Arlington, VA)	86-0037-00	D	08-29-86	08-28-89	§ 32.200(a)(3).
Jerlow, John A. (Lakefield, MN)	85-0047-02	D	05-01-86	04-30-89	§ 32.200(a).
Jerpbak, Daniel R. (Owatonna, MN)	86-0024-01	D	09-25-86	09-24-89	§ 32.200(i).
Johnson, C. Theodore (Indianapolis, IN)	84-0023-04	D	03-04-86	03-03-89	§ 32.200 (a), (f).
Jopel Contracting & Trucking Corporation (Bronx, NY)	85-0022-00	S	07-30-85	Open	§ 32.300(b).
Komatz Construction Co., Inc. (St. Peter, MN)	85-0019-00	D	09-26-85	09-25-88	§ 32.200(a)(3).
Komatz, Thomas P. (St. Peter, MN)	85-0019-01	D	09-26-85	09-25-88	§ 32.200(a)(3).
Krueger, Joseph (Cleveland, OH)	84-0025-01	D	10-04-84	10-03-87	§ 32.200 (c), (i).
Kruse, Lloyd C. (Lakefield, MN)	85-0047-01	D	05-01-86	04-30-89	§ 32.200(a).
L&J Waste Service, Inc. (Hialeah, FL)	85-0079-02	D	12-19-86	12-18-89	§ 32.200 (a), (i).
Laney, Stuart D., Jr. (Wilmington, NC)	87-0039-00	D	01-12-87	07-11-87	§ 32.200(a).
Law, David P. (Greenwell Springs, LA)	85-0064-00	S	07-29-85	Open	§ 32.300(b).
Law, Theresa McBeth (Greenwell Springs, LA)	85-0064-01	S	07-29-85	Open	§ 32.300(b).
Lee, Herbert P., III. (Sumter, SC)	84-0013-01	VE	02-14-85	12-31-87	§ 32.200(a).
Lench, Frank P. (Lafayette, CA)	86-0004-01	D	03-07-86	03-06-89	§ 32.200(a).
Leyendecker Highway Contractors, Inc. (Laredo, TX)	86-0014-00	D	07-17-86	03-25-88	§ 32.200(a).
Lizza Industries, Inc. (Roslyn, NY)	85-0008-00	D	09-11-86	09-10-89	§ 32.200 (a), (b).
Lofgren, Sven (Lincoln, NE)	87-0014-01	S	11-12-86	Open	§ 32.200(i).
Masselli, William P. (Bronx, NY)	85-0022-02	S	07-30-85	Open	§ 32.300(b).
McDowell Contractors, Inc. (Nashville, TN)	84-0014-00	VE	12-23-85	12-22-88	§ 32.200 (a).
McGill and Smith (Amelia, OH)	86-0092-00	VE	11-12-86	11-11-87	§ 32.200 (e), (i).
McGonagle, Joseph D. (Everett, MA)	86-0041-01	VE	11-17-86	11-16-87	§ 32.200(a).
Meyer-Rohlin, Inc. (Buffalo, MN)	86-0081-00	S	04-01-87	Open	§ 32.200 (a), (i).
Meyer, Thore P. (Buffalo, MN)	86-0081-01	S	04-01-87	Open	§ 32.200 (a), (i).
Midhampton Asphalt (Roslyn, NY)	85-0008-03	D	09-11-86	09-10-89	§ 32.200 (a), (b).
Millspaugh, Michael J. (Mobile, AL)	86-0107-02	D	06-18-87	06-17-90	§ 32.200(a).
Modern Electric Co. (Statesville, NC)	85-0004-00	D	01-06-86	01-05-89	§ 32.200(a).
Moore, Gray E. (Jr.) (Greenwood, SC)	86-0108-00	D	08-19-86	08-18-89	§ 32.200.
Moorehead, Dennis L. (Graniteville, SC)	84-0006-01	D	01-11-85	01-10-88	§ 32.200(a).
Moorse, Lawrence (Marshall, MN)	85-0053-01	D	12-17-85	12-16-88	§ 32.200(a)(3).
Mystic Bituminous Products Company, Inc. (Everett, MA)	86-0041-00	VE	11-17-86	11-16-87	§ 32.200(a).
Neal, George D. (Hamden, CT)	86-0040-01	VE	01-09-87	01-08-88	§ 32.200(a).
Newt Solomon, Inc. (Nashville, TN)	85-0058-00	D	10-10-85	10-09-88	§ 32.200 (e), (i).
Owens, Jerry B. (Southfield, MI)	85-0065-00	D	02-24-86	03-26-89	§ 32.200(b).
Parkhill-Goodloe Co., Inc. (Jacksonville, FL)	86-0099-00	VE	04-16-87	10-15-88	§ 32.200(a).
Piccinonna, Julio (Hollywood, FL)	85-0079-01	D	05-11-87	05-10-90	§ 32.200(a).
Pinney, J.A. Bruce (Bala Cynwyd, PA)	84-0023-06	D	01-15-86	03-03-89	§ 32.200 (a), (f).
Pipeline Renovation Service, Inc. (Tacoma, WA)	86-0078-00	D	07-02-86	08-07-89	§ 32.200 (c), (i).
Pirnos, Wayne (Woodbridge, NY)	86-0096-03	D	04-24-87	04-23-90	§ 32.200(a).
Regenscheid, Charles E. (St. Peter, MN)	85-0019-03	VE	12-19-85	12-18-87	§ 32.200(a)(3).
Resource Conservation & Recovery of America, Inc. (Orlando, FL).	86-0038-04	D	10-02-86	11-23-89	§32.200 (a), (i).
Rio Grande Construction Company (Bunkie, LA)	85-0063-00	S	07-29-85	Open	§ 32.300(b).
Rogers, Joseph J. (Pittsburgh, PA)	86-0004-02	D	03-07-86	03-06-89	§ 32.200(a).
Rol-Away Systems, Inc. (Hollywood, FL)	85-0079-00	D	12-19-86	12-18-89	§ 32.200 (a), (i).

EPA MASTER LIST OF DEBARRED, SUSPENDED AND VOLUNTARILY EXCLUDED PERSONS—Continued

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
Rupp Construction Company, Inc. (Slayton, MN)	85-0048-00	D	07-17-86	07-16-89	§ 32.200(a).
Rupp, Douglas (Slayton, MN)	85-0048-01	D	07-17-86	07-16-89	§ 32.200(a).
Sarandos, Constantino (Gus) (Tacoma, WA)	86-0078-02	D	07-02-86	08-07-89	§ 32.200 (c), (i).
Sarandos, Dolores, K. (Tacoma, WA)	86-0078-01	D	07-02-86	08-07-89	§ 32.200 (c), (i).
Sarandos, George (Tacoma, WA)	86-0078-03	D	07-02-86	08-07-89	§ 32.200 (c), (i).
Saunders, George F. (High Point, NC)	85-0017-02	VE	12-10-85	12-09-88	§ 32.200 (a), (3).
Sauseda, Roy (Bunkie, LA)	85-0063-02	D	07-29-85	10-13-89	§ 32.200 (a), (i).
Schorr, Paul C. (III) (Lincoln, NE)	87-0014-00	S	11-12-86	Open	§ 32.200(i).
Seale, Leonard M. (Bedford, MA)	86-0095-02	S	06-24-86	Open	§ 32.300(b).
Service Scaffold, Inc. (S. Fallsburg, NY)	86-0096-00	D	04-24-87	04-23-90	§ 32.200(a).
Seymour Sealing Service, Inc. (Hamden, CT)	86-0040-00	VE	01-09-87	001-08-88	§ 32.200(a).
Smith, Norman F. (Wilbraham, FL)	86-0071-01	D	02-05-87	02-04-90	§ 32.200(a).
Smith, Paul F. (Lakefield, MN)	85-0047-03	D	05-01-86	04-30-89	§ 32.200(a).
Solomon, Newt (Nashville, TN)	85-0058-01	D	10-07-85	10-06-88	§ 32.200 (e), (i).
Stuckey, Floyd D. (Winfield, KS)	84-0028-01	D	08-26-85	08-26-88	§ 32.200(a).
Suburbran Grading & Utilities, Inc. (Norfolk, VA)	85-0034-00	S	06-18-87	Open	§ 32.200(i).
Tallini, Robert (Atlanta, GA)	86-0046-00	D	02-26-87	08-25-87	§ 32.200(i).
Tow Brothers Const., Company (Fairmont, MN)	85-0054-00	D	01-22-86	01-21-89	§ 32.200(a).
Tow, James (Fairmont, MN)	85-0054-01	D	01-22-86	01-21-89	§ 32.200(a).
Toy, Daniel Lee (Utica, MI)	86-0010-03	D	12-10-85	12-09-88	§ 32.200(a).
Tubre Enterprises (Bunkie, LA)	85-0062-01	S	07-29-85	Open	§ 32.300(b).
Tubre Enterprises, Inc. (Bunkie, LA)	85-0062-00	S	07-29-85	Open	§ 32.300(b).
Tubre, Charles (Baton Rouge, LA)	85-0062-02	S	07-29-85	Open	§ 32.300(b).
Tubre, Thomas (Bunkie, LA)	85-0063-01	S	07-29-85	Open	§ 32.300(b).
Tucker Brothers Contracting Co. (Pell City, AL)	83-0061-00	D	11-26-84	11-25-87	§ 32.200(a).
Tucker, Harold Ray (Pell City, AL)	83-0061-02	D	11-26-84	11-25-87	§ 32.200(a).
Tucker, Kenneth W. (Pell City, AL)	83-0061-01	D	11-26-84	11-25-87	§ 32.200(a).
Twedell, David Bruce (Gainesville, FL)	83-0020-01	D	08-30-85	08-29-87	§ 32.200(a).
Universal Engineering & Supply, Inc. (Sulphur, LA)	87-0071-00	D	03-06-86	03-05-89	§ 32.200 (a), (b).
Universal Engineering (Sulphur, LA)	85-0071-05	D	03-06-86	03-05-89	§ 32.200 (a), (b).
Universal Wheels, Inc. (Sulphur, LA)	85-0071-06	D	03-06-86	03-05-80	§ 32.200 (a), (b).
Valentini, Joseph (Ypsilanti, MI)	85-0024-01	D	02-24-86	04-02-89	§ 32.200 (a), (b).
W.V. Pangborne & Co., Inc. (Bala Cynwyd, PA)	84-0023-05	D	01-15-86	10-19-87	§ 32.200 (a), (f).
Watson Electrical Construction Co. (Wilson, NC)	86-0109-00	D	12-19-86	12-18-89	§ 32.200(i).
Watson-Flagg Electric Co., Inc. (Indianapolis, IN)	84-0023-03	D	04-28-86	10-19-87	§ 32.200(a).
Williams, G. Marvin (Asheville, NC)	86-0047-02	D	03-18-86	07-15-89	§ 32.200(i).
Wolverine Disposal, Inc. (Ypsilanti, MI)	85-0024-00	D	02-24-86	04-02-89	§ 32.200 (a), (b).
Womack, Jerry T. (Norfolk, VA)	85-0034-01	S	06-18-87	Open	§ 32.200(i).
Young, Frank Paul (Sr.) (Glen Burnie, MD)	86-0011-01	D	08-20-86	08-19-89	§ 32.200 (f), (i).

[1] D=Debarred; S=Suspended; VE=Voluntarily Excluded.

[FR Doc. 87-15246 Filed 7-2-87; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

June 26, 1987

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transaction Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on these submissions contact Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB No. 3060-0249
Title: Section 74.781, Station Records
Action: Extension
Respondents: Licensee of low power television or TV translator stations
Frequency of Response: Recordkeeping requirement
Estimated Annual Burden: 5,114 Recordkeeps; 4,705 Hours

Needs and Uses: Section 74.781 requires licensees of low power television or TV translator stations to maintain adequate station records. These records shall include the current instrument of authorization, official correspondence with the FCC, maintenance records, contracts, permission for rebroadcasts, and other pertinent documents. They should also include any observed or otherwise known extinguishment or improper functioning of a tower light. The records are used by FCC staff in field investigations to assure that reasonable measures are taken to maintain proper station operations and to ensure compliance with the Commission's rules.

OMB No. 3060-0250
Title: Section 74.784, Rebroadcasts
Action: Extension
Respondents: Licensees of low power television or TV translator stations
Frequency: On occasion
Estimated Annual burden: 1,704 Responses; 1,704 Hours

Needs and Uses: Section 74.784(b) states that a licensee of a low power television or TV translator station shall not rebroadcast the programs of any other TV broadcast station without obtaining prior consent of the station whose signals or programs are proposed to be retransmitted. This rule section requires licensees of low power

television and TV translator stations to notify the Commission when rebroadcasting programs or signals of another station. This notification shall include the call letters of each station rebroadcast. The licensee of the low power television or TV translator station shall certify that written consent has been obtained from the licensee of the station whose programs are retransmitted. The data is used by FCC staff to ensure compliance with section 325(a) of the Communications Act of 1934, as amended, which states that no broadcasting station shall rebroadcast the program or any part thereof another broadcasting station without the express authority of the originating station.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-15219 Filed 7-2-87; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

June 25, 1987.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of these submissions may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., Suite 140, Washington, DC 20037, or telephone (202) 857-3815. Persons wishing to comment on an information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395-4814. Copies of these comments should be also be sent to the Commission. For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0110
Title: Application for Renewal of License for Commercial and Noncommercial AM, FM or TV Broadcast Station
Form No.: FCC 303-S
Action: Extension (Renewal)

Estimated Annual Burden: 336 Responses; 168 Hours.

Needs and Uses: Filing is required for license renewal. The applicant certifies that all required reports and contracts have been filed and that the station is in compliance with all applicable legislation and regulations. The data is used to assure eligibility for renewal.

OMB No.: 3060-0075
Title: Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station, or a Low Power Television Station
Form No.: FCC 345
Action: Extension (Renewal)

Estimated Annual Burden: 227 Responses; 2,270 Hours.

Needs and Uses: Filing is required when applying for authority for transfer or assignment. The data is used to determine the applicant's eligibility to operate the station, based on compliance with statutory requirements.

OMB No.: 3060-0018
Title: Application for Renewal of License for Translator or Low Power Television Broadcast Station
Form No.: FCC 348
Action: Extension (Renewal)

Estimated Annual Burden: 2,234 Responses; 559 Hours.

Needs and Uses: Filing is required for license renewal. The applicant certifies that all required reports and contracts have been filed and that the station is in compliance with all applicable legislation and regulations. The data is used to assure eligibility for renewal.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-15220 Filed 7-2-87; 8:45 am]

BILLING CODE 6712-01-M

Common Carrier Public Mobile Services Information

June 23, 1987.

Clarification of Section 22.117(b)

Section 22.117(b)(1) of the rules permits the construction and operation of new transmitter locations without prior authority provided that the reliable service area contour and predicted interference contours are encompassed within the reliable service area and predicted interference contours of existing stations. Service area contours and interference contours are computed using the F (50,50) and F (50,10) charts of § 22.504. However, this policy does not apply to 900 MHz paging frequencies because 900 MHz paging channels are allocated strictly by a separation distance of 70 miles between co-channel operations of different licensee. A 20-mile radius is assumed as the reliable service area contour of each 900 MHz base station. Each new location operating on 900 MHz is checked by computer to verify that a 70-mile separation between co-channel operations is maintained. Since each new transmitter location is assigned a 20-mile radius service area contour, the addition of each new 900 MHz transmitter location will produce a service area contour that is not encompassed within the existing service area contour. Therefore, 900 MHz additional locations do not fit within the meaning of § 22.117(b).

However, in the interest of speeding service to the public, the Mobile Services Division will, effective immediately, permit the addition of 900 MHz base stations by noification on FCC Form 489, when the new transmitter location has its 20-mile radius service area contour encompassed by existing 20-mile radius service area contours operating on the same frequency and licensed to one licensee, or more than one licensee, where the notification provides a written signed agreement between cooperating licensees. Each notification must provide a map depicting the 20-mile radius service area contour of each existing transmitter and the proposed new transmitter. Additionally Form 489 notification will be permitted even where the new 20-mile radius service area contour is not encompassed by existing contours, provided the non enclosed area of the new contour extends into the ocean.

For further information please contact Sam Gumbert at 202-653-5560.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-15221 Filed 7-2-87; 8:45 am]

BILLING CODE 6712-01-M

[FCC 87-219]

Common Carrier Public Mobile Services Information; Announcement of Suspension of Commission's Ex Parte Rules for Non-wireline Cellular Applications of Tentative Selectees in Cellular Markets 190, 193, 198, 199, 201, 202, 203, 205, 207, 217, 221, and 232

June 18, 1987.

The Federal Communications Commission is currently conducting an investigation of the tentative selectees in the following cellular markets:

Market No.	Market name	Tentative selectee application
190	Boise City, Idaho	File No. 46346-CL-P-190-A-86.
193	Benton Harbor, Michigan	File No. 49259-CL-P-193-A-86.
198	St. Cloud, Minnesota	File No. 53230-CL-P-198-A-86.
199	Steubenville-Weirton, Ohio-West Virginia	File No. 54792-CL-P-199-A-86.
201	Waterloo-Cedar Falls, Iowa	File No. 41799-CL-P-201-A-86.
202	Arecibo, Puerto Rico	File No. 50349-CL-P-202-A-86.
203	Lynchburg, Virginia	File No. 57807-CL-P-203-A-86.
205	Alexandria, Louisiana	File No. 53093-CL-P-205-A-86.
207	Jackson, Michigan	File No. 49336-CL-P-207-A-86.
217	Anderson, Indiana	File No. 55937-CL-P-217-A-86.
221	Fargo-Moorehead, North Dakota-Minnesota	File No. 53044-CL-P-221-A-86.
232	Eau Claire, Wisconsin	File No. 51837-CL-P-232-A-86.

Because of the sensitive nature of the investigation, the Commission, *sua sponte*, is suspending until further notice the requirement that all communications from cellular applicants in the above markets to Federal Communications Commission staff be served on other parties under the *ex parte* rules found in Part 1 of the Commission's Rules. All responses, presentations, and communications made to the Commission in connection with this investigation will be considered and treated as confidential material. As a result, pursuant to § 0.457(g) of the Commission's Rules, all records of communications in regard to cellular tentative selectees will not be made available for public inspection. In addition, such communications to the Commission should not be served on any other persons. The Commission is taking this action to allow the processing of cellular applications and permits to be conducted in a manner that will be conducive to both the proper dispatch of business and the ends of justice while preserving the integrity of its cellular licensing process. 47 U.S.C. 154(j).

Action by the Commission June 18, 1987. Commissioners Patrick (Chairman), Quello, Dawson and Dennis.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-15222 Filed 7-2-87; 8:45 am]

BILLING CODE 6712-01-M

Lottery Rankings of 900 MHz SMRS Applicants for the Detroit, Boston-Providence, Houston, Washington-Baltimore, and Dallas-Fort Worth Designated Filing Areas

On June 19, 1987, the Federal Communications Commission conducted its second round of lotteries to select applicants to provide 900 MHz Specialized Mobile Radio (SMR) Service. These lotteries were used to rank applications in each of the following Designated Filing Areas (DFAs):

#6 Detroit
#7 Boston-Providence
#8 Houston
#9 Washington-Baltimore
#10 Dallas-Fort Worth

Lists of the forty top-ranked applications in each of these Designated Filing Areas are attached to this Public Notice. The top 20 selectees in each DFA will be granted authorizations to provide SMR service. The next 20 ranked applicants will be alternate selectees should it be determined that any of the winners are not qualified to be licensees, or if any of the winners fail to provide the Commission with required transmiter site information within the specified time period. Within 30 days of the publication of this Public Notice in the **Federal Register**, interested parties may advise the Commission of any matter that may reflect on an applicant's qualifications to be a licensee. A copy of any such pleading must be served on the applicant in question on or before the day on which the document is filed with the Commission. *See* § 1.47(b) of the Commission's rules, 47 CFR 1.47(b). Service can be accomplished pursuant to § 1.47(d) of the Commission's rules, 47 CFR 1.47(d). Matters raised in such pleadings will be resolved prior to issuance of any license to the applicant. Individual applications may be examined at the Private Radio Bureau's Public Reference Room in Gettysburg, PA. Copies of individual applications may be ordered from the Commission's copy contractor, International Transcription Services, at (717) 337-1433.

All applications ranked below number 40 are hereby dismissed and will not be returned to the applicants. There will be no individual notices of dismissal mailed to applicants. The Lottery Notice of June 4, 1987 contains the names and addresses of lottery participants.

For further information regarding the selection procedures, consult the November 4, 1986 Public Notice (1 FCC Rcd 543 (1986), 52 FR 1302 (January 12, 1987)) or contact Betty Woolford of the Land Mobile and Microwave Division at (202) 632-7125.

Federal Communications Commission.

William J. Tricarico,

Secretary.

900 MHz SMR Applications in the Detroit DFA

Rank/Applicant name	Lottery code	File No.
Winners:		
1. Radio Communications Service	0981	020133
2. F M Communications, Inc.	0382	020128
3. Carr, Robert W.	0194	026547
4. Fenton, Stephanie C.	0392	024496
5. Hallieb, James F.	0499	020838
6. Pool, Harold O., Jr.	0951	027582
7. Elite Car & Limousine, Inc.	0362	031227
8. Maynord, Charles V.	0789	023903
9. Wilder, Jon A.	1287	031698
10. Dannehower, James K.	0295	028981
11. Marx, Paul F.	0777	020839
12. Shapiro, Sharon M.	1092	029169
13. Daniels Electronics	0292	029895
14. Kelly, James B.	0629	020520
15. Zajac, Ronald	1326	024207
16. Haskey, Richard R.	0522	032651
17. S T Communications, Inc.	1047	030474
18. Thompson Engineering Co.	1206	026702
19. Alphatronics, Inc.	0029	033831
20. WKH Cell, Inc.	1305	021559
Alternates:		
21. Hussain, Wasif	0578	031064
22. Foster, Kent S.	0418	032009
23. Seid, Clarence	1079	033105
24. Gray Communications Marketing, Inc.	0479	030162
25. Linnabary, Judson R.	0714	020156
26. Celestial Communications Co.	0204	025767
27. Shenn, Jen:Song, Sue Jen	1099	033070
28. Webb, Laura M.	1267	025105
29. Kasmiersky, Paul R.	0621	022740
30. Smith, Lawrence	1134	024020
31. Holland, Barbara	0557	020922
32. Calpage, Inc.	0186	029009
33. Mobile Relay Associates, Inc.	0853	032919
34. Stebbins, Michael L.	1155	020530
35. Shotey, Michael J.	1107	031578
36. Gray, James C.	0480	031242
37. Beverly Hills Communications & Electronics	0113	033751
38. Sigmon, Donald	1115	031243
39. Hunse, William H.	0576	030885
40. Kleinschmidt, Neau L.	0648	021307

900 MHz SMR Applications in the Boston-Providence DFA

Rank/Applicant name	Lottery Code	File No.
Winners:		
1. Kellett, Michael T.	0782	024620
2. Swider, Robert A.	1499	029060
3. Ram 900 MHz Communications, Inc.	1245	025664
4. Two-Way Radio Service	1556	020696
5. Wayne, Sanford	1611	025260
6. Arizona Radio Communications, Inc.[1]	1707	019051
7. Keyes, Harvey	0792	031970
8. Bradford, Donald F.	0163	026000
9. White, H. Hunter, III	1632	021570
10. Denault, Herbert M., Jr.	0390	033042
11. Mantz, Edward G.	0938	028205
12. McDonnell, Tim	0991	028908
13. Wilburn, Waymon D.	1637	028691
14. Shapiro, Andy	1380	022708
15. Mass Installation, Inc.	0957	022672
16. Despain, Harriet	0398	027852
17. Nashoba Communications, Inc.	1091	032458
18. Wechsler, Stephen B.	1620	030339
19. Vivier, Doriene M.	1585	028889
20. Decleva, Paul, Jr.	0384	027948
Alternates:		
21. Brown, Sherry L.	0187	023642
22. Allegro Communications Co.	0027	031026
23. Mitchell, Michael A.	1049	024229
24. Elert Systems Corp.	0448	031880
25. Vielma, Stanley, I	1582	030755
26. Frisaid, Ellen	0536	023272
27. Hallvik, C. John	0628	024999
28. Meyer, Steven C.	1025	024481
29. Gummere, John L.	0612	032471
30. Powell, Craig, W.	1207	025168
31. Palmer Communications	1140	019016
32. Ybarra, Susan Jane	1676	027404
33. Stone, Earl L., Jr.	1483	028254
34. Brady, Terrence	0168	023587
35. Hall, Wayne T.	0625	021649
36. Desmond, Charlie	0397	033052
37. Skall, Gregg P.	1423	027265
38. Otterbein, J. Cortney	1130	029949
39. Adams, Earl M., III	0010	020793
40. Shenn, Jen:Song, Sue Jen	1389	033071

[1] This application was not listed in the Lottery Notice dated June 4, 1987. Their address is 2245 North 7th Street, Phoenix, AZ 85006.

900 MHz Applications in the Houston DFA

Rank/Applicant name	Lottery code	File No.
Winners:		
1. Hall Wayne T.	0561	021650
2. Brown, Sherry L.	0172	023643
3. Metrolink Mobile Telephone, Inc.	0920	024862
4. Longshore, Michael D.	0813	026804
5. Thomas, Jayne M.	1365	027434
6. Tarnutzer, Byron	1355	030776
7. Ferrara, Eric J.	0441	019831
8. Parks, Francesca A.	1041	033556
9. Berryman, Gene C.	0119	030482
10. Hirsch, Steven S.	0615	029974
11. Forsythe, Levane M.	0467	033654
12. Russo, Frederick	1183	032768
13. Hewell, Betty J.	0605	031407
14. Aldine Communications, Inc.	0020	031922
15. Gordon, Gloria	0537	032418
16. Helsel, David	0595	028238
17. Davis, Carl N.	0337	025953
18. Roy, Arvind	1178	030714
19. Ferrante, William A., Jr.	0439	022403
20. Blumling, Louis R.	0135	022331
Alternates:		
21. Louisiana Cellular Service, Inc.	0820	026679
22. Ryan, Eudell	1184	031156
23. Lunda, Charles M.	0827	021451
24. Incardona, Earl J.	0652	021485
25. McKnight, James L.	0902	021390
26. Steinhibler, Richard M.	1317	030051
27. J B Sydnor Towing Service	0660	026965
28. Ponce, Anna	1075	019941
29. Mos, I. Neil	0968	023343
30. Oakley, R. B., Jr.	1010	022242
31. Carr, Robert W.	0215	026545
32. Staggs, Jay B.	1306	025963
33. Ryan, James D.	1185	023029
34. Bailey, Robert T.	0086	026709
35. Dephillips, Andrew J.	0355	033973
36. May, Robert T.	0876	034407
37. Skufeeda, Georgene L.	1280	025138
38. Royster, James T.	1179	021101
39. McAnally, Rose H.	0884	025018
40. Kellett, Michael T.	0705	024621

900 MHz SMR Applications in the Washington-Baltimore DFA

Rank/Applicant name	Lottery code	File No.
Winners:		
1. Washington, Parks, Jr.	1700	022437
2. Klaif, Charles	0871	027363
3. Garofalo, Anita M.	0599	028461
4. Stegall, Harry B.	1552	026653
5. Auto Care, Inc.	0087	018834
6. Brown, Patricia L.	0207	027727
7. Braaten, Wayne H.	0184	026450

900 MHz SMR Applications in the Washington-Baltimore DFA—Continued

Rank/Applicant name	Lottery code	File No.
8. Carter, George H.	0268	021621
9. Electrocom, Inc.	0489	018876
10. Farquhar, George R.	0525	032405
11. Eichberg, Robert	0485	020150
12. Farmer, Janie	0524	020728
13. Parker, Ralph C.	1223	026696
14. Racom Services Corp.	1309	025465
15. Rick, Neil	1354	029987
16. Gonzalez, Thomas M.	0645	028171
17. Morris Communications, Inc.	1143	026750
18. Dinucci & Associates, Inc.	0450	021174
19. Singh, Hans L.	1504	027353
20. Wallace, William B.	1689	026554
Alternates:		
21. Roberts, Quintus I.	1369	020884
22. Dawson Associates	0421	025938
23. Comm Tronics	0329	027569
24. Harris, Stanley W.	0708	026628
25. Sorensen, Marjorie S.	1530	023807
26. Fowler, Bobby L.	0570	021320
27. Fenton, Stephanie C.	0533	024504
28. Dandeneau, Philip	0406	027554
29. Powell Broadcasting Co.	1275	028580
30. Moss, I. Neil	1147	023342
31. Howe, Delores M.	0771	026714
32. Gionta, Michael J.	0633	026636
33. Burditt, George M., III	0227	033004
34. Mazzei, Petra H.	1051	032421
35. Fidelity Systems Co.	0540	029876
36. Shapiro, Sharon M.	1461	029172
37. Brown, Joan F.	0205	031161
38. Pezold, Lennard	1253	025705
39. Krell, Steven	0894	020140
40. Rosone, Robert J.	1382	026145

900 MHz SMR Applications in the Dallas-Fort Worth DFA

Rank/Applicant name	Lottery code	File No.
Winners:		
1. Shapiro, Sharon M.	1529	029173
2. Walter, Sterling Surrey	1778	032702
3. Kramps, Karl	0930	019807
4. Jordan, Stacey A.	0865	024117
5. Mabrey, Janie	1035	023942
6. Cairell, Joe	0251	021612
7. Springer, Richard B.	1609	024234
8. Despain, Harriet	0446	027849
9. Razim, Eva	1391	029910
10. Plisko, John	1322	029631
11. Hallieb, James F.	0700	020681
12. Krouss, Stephen R.	0935	024978
13. Cordova, Mary M.	0356	030730
14. Peacock's Radio & Wild's Computer Svc.	1304	027290
15. York, Jerry	1874	018601
16. Hanan, G.A.	0704	025156
17. Parker, Ralph C.	1281	026850

900 MHz SMR Applications in the Dallas-Fort Worth DFA—Continued

Rank/Applicant name	Lottery code	File No.
18. Progressive Mobile Communications, Svc...	1361	025146
19. IWL Communications, Inc.	0820	031955
20. Everest, Andrew S.	0530	022749
Alternates:		
21. Acticom, Inc.	0008	025623
22. Shamshiri, Michelle	1526	025324
23. Parrott, Billy J.	1290	019163
24. Schiada, Richard T.	1494	028643
25. DGC Associates	0448	027344
26. Ditsky, Stuart	0457	030176
27. Fister, Patti	0568	024067
28. Long, Ronald W.	1013	025551
29. Massey, J.G.	1078	034759
30. Metrowest Systems, Inc.	1151	024002
31. Toler, Paul	1715	034569
32. Sheridan, Hugh C.	1537	018624
33. Palmer Communications	1274	019011
34. Ragan Communications	1379	029811
35. House, Rod	0795	034668
36. Reynolds, Irish	1407	034549
37. Gibbs, Gary W.	0640	023687
38. Becker, Nancy	0741	019555
39. Chamberlin, Sherry	0287	030732
40. Spitzer, Richard	1606	034609

[FR Doc. 87-15224 Filed 7-2-87; 8:45 am]
BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee; Meeting

The Technical Subgroup of the Advisory Committee on Radio Broadcasting will resume its continuing meeting on Thursday, July 23, 1987 at 10:00 a.m. in the Vincent Wasilewski Room of the National Association of Broadcasters, 1771 N Street, NW, Washington, DC.

The Subgroup will consider the following matters:

—Synchronous transmitters;
—Other technical issues identified by the Commission's review of the AM broadcast rules;
—Technical issues relating to the preparations for the upcoming Second Session of the Region 2 Conference on the Planning of the Expansion of the AM band;
—Other business.

The Subgroup's meetings are continuing ones, and may be resumed after the July 23, 1987 session at such time and place as may be decided at that session.

All meetings of the Technical Subgroup are open to the public. All interested persons are invited to participate in these meetings.

For further information, please call the Subgroup Chairman, Wallace E. Johnson, at (703) 824-5660.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-15223 Filed 7-2-87; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Company Engaged in Nonbanking Activities; Allied Irish Banks, P.L.C.

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 section 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. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 24, 1987.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Allied Irish Banks, P.L.C., Dublin, Ireland, and First Maryland Bancorp, Baltimore, Maryland; to engage *de novo* through their subsidiary, First Maryland Cheque Corporation, Baltimore, Maryland, in the issuance and sale of retail money orders having a face value of not more than $10,000; the issuance and sale of official checks having no limitations on face value; and in the provision of data processing, management, and servicing support services in connection with the payment activities pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-15154 Filed 7-2-87; 8:45 am]
BILLING CODE 6210-01-M

Acquisitions of Shares of Banks or Bank Holding Companies; Change in Bank Control

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 July 16, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Gene A. Baughman,* Paulding, Ohio; to acquire up to 11.41 percent of the voting shares of Oakwood Deposit Bank, Oakwood, Ohio.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Donald W. Herrick, Jr.,* Trustee under a Voting Trust Agreement, to acquire 99.2 percent of the voting shares of Stanbrook Incorporated, North St. Paul, Minnesota, and thereby indirectly acquire First National Bank in St. Charles, St. Charles, Minnesota; and Willard Bancshares, Inc., North St. Paul, Minnesota, and thereby indirectly

acquire Heritage National Bank, North St. Paul, Minnesota.

Board of Governors of the Federal Reserve System, June 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-15155 Filed 7-2-87; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; First Ipswich Bancorp, et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 23, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First Ipswich Bancorp,* Ipswich, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Ipswich, Ipswich, Massachusetts.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Security Chicago Corp.,* Chicago, Illinois; to acquire 21 percent of the voting shares of First State Bancorp of Princeton, Princeton, Illinois, and thereby indirectly acquire First State Bank of Princeton, Princeton, Illinois, and Farmers State Bank of Sheffield, Sheffield, Illinois. Comments on this application must be received by July 20, 1987.

2. *Stillman Bancorp, Inc.,* Stillman Valley, Illinois; to acquire 100 percent of the voting shares of United Bank of Rochelle, Rochelle, Illinois.

3. *Success Financial Group, Inc.,* Lincolnshire, Illinois; to become a bank holding company by acquiring 50 percent of the voting shares of Lincolnshire Bancshares, Inc., Lincolnshire, Illinois, and thereby indirectly acquire First National Bank of Lincolnshire, Lincolnshire, Illinois; Bellwood Bancorporation, Inc., Bellwood, Illinois, and thereby indirectly acquire Bank of Bellwood, Bellwood, Illinois; and First National Bank of Wheaton, Wheaton, Illinois, and thereby indirectly acquire Peterson Bank, Chicago, Illinois.

C. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Shakopee Bancorporation, Inc.,* St. Paul, Minnesota; to become a bank holding company by acquiring 96.7 percent of the voting shares of Citizens State Bank of Shakopee, Shakopee, Minnesota.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *CeeVeeTee Limited Partners,* Shawnee Mission, Kansas; to become a bank holding company by acquiring 62 percent of the voting shares of FCB Bancshares, Inc., Overland Park, Kansas, and thereby indirectly acquire First Continental Bank & Trust, Overland Park, Kansas. Comments on this application must be received by July 22, 1987.

2. *FCB Bancshares, Inc.,* Overland Park, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of First Continental Bank & Trust, Overland Park, Kansas. Comments on this application must be received by July 22, 1987.

3. *First State Fremont, Inc.,* Fremont, Nebraska; to become a bank holding company by acquiring 99.75 percent of the voting shares of First State Bank, Fremont, Nebraska.

Board of Governors of the Federal Reserve System, June 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-15156 Filed 7-2-87; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Company Engaged in Permissible Nonbanking Activities; Ozark Bankshares, Inc.

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 written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 24, 1987.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Ozark Bankshares, Inc.,* Ozark, Arkansas; to acquire Ozark Commercial Corporation ("OCC"), Tulsa, Oklahoma, and thereby engage in the origination, sale, and servicing of mortgage and commercial loans pursuant to § 225.25(b)(1) of the Board's Regulation Y; and Ozark Financial Services, Inc. ("OFS"), Ozark, Arkansas, and thereby engage in acting as a broker for OCC's mortgage and commercial loans pursuant to § 225.25(b)(1) of the Board's Regulation Y. OFS will conduct its

activity in the State of Arkansas. OCC will conduct its activity in states of Arizona, Colorado, Georgia, Mississippi, Nevada, Tennessee, Texas, Utah, Oklahoma, and Missouri.

Board of Governors of the Federal Reserve System, June 29, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-15157 Filed 7-2-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegations of Authority; Office of Special Programs Coordination

Part A (Office of the Secretary) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) is amended to reflect the transfer of the environmental affairs function from the Office of Management Programs to the Office of Special Programs Coordination. Specifically, Chapter AMS, Office of Administrative and Management Services, last published at 52 FR 3/12/87 is revised as follows:

1. In Chapter AMS, Section AMS.20 Functions, paragraph "F. Office of Management Programs," delete items (8) and (9); and renumber (10) and (11) as items (8) and (9).

2. In Chapter AMS, Section AMS.20 Functions, paragraph "B. Office of Special Programs Coordination," after item 12, insert the following:

(13) Oversees HHS compliance with the National Environmental Policy Act, the National Historic Preservation Act, and related statutes and Executive Orders.

(14) Coordinates the review of environmental impact statements developed by other Federal departments and agencies.

Dated: June 26, 1987.

S. Anthony McCann,

Assistant Secretary for Management and Budget.

[FR Doc. 87-15235 Filed 7-2-87; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 86N-0438]

Dimetridazole; Withdrawal of New Animal Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Center for Veterinary Medicine (CVM) of the Food and Drug Administration (FDA) is withdrawing approval of all approved new animal drug applications (NADA's) for dimetridazole. The NADA's were the subject of a notice of opportunity for hearing proposing that they be withdrawn. The sponsor originally requested but later withdrew its request for a hearing, thus waiving the opportunity for hearing.

In a final rule published elsewhere in this issue of the **Federal Register**, CVM is removing those portions of the regulations that reflect approval of the NADA's.

EFFECTIVE DATE: July 31, 1987.

FOR FURTHER INFORMATION CONTACT: Philip J. Frappaolo, Center for Veterinary Medicine (HFV-240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4940.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 17, 1986 (51 FR 45244), FDA's Center for Veterinary Medicine published a notice of opportunity for hearing on a proposal to withdraw all approved NADA's for dimetridazole, an antiprotozoal agent approved for use in turkeys. The notice identified Salsbury Laboratories, Inc., as the sponsor of the three approved NADA'S: NADA 14-145, NADA 14-345, and NADA 14-613. CVM based the proposed action on section 512(e)(1)(B) of the Federal Food, Drug, and Cosmetic Act (the act) on the ground that dimetridazole has not been shown to be safe for use: (1) Because new evidence provides a reasonable basis from which serious questions about the ultimate safety of dimetridazole and the residues that may result from its use may be inferred, (2) because new evidence shows that dimetridazole is no longer shown to be safe by adequate tests by all methods reasonably applicable, and (3) because new evidence shows that the labeled directions for use have not been followed in practice and are not likely to be followed in the future. The notice required written appearances by January 16, 1987, and data and analysis by February 17, 1987.

Salsbury filed a written appearance requesting a hearing but later withdrew it, thus waiving the opportunity for hearing. Rhone-Poulenc, Inc., filed a written request for hearing but did not submit any data and analysis to justify a hearing. Additionally, Rhone-Poulenc is not the sponsor of an approved NADA for dimetridazole. For each of these reasons, Rhone-Poulenc, Inc., is not entitled to a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 14-145, NADA 14-345, and NADA 14-613 and all supplements thereto is hereby withdrawn, effective July 31, 1987.

In a final rule published elsewhere in this issue of the **Federal Register**, CVM is removing 21 CFR 520.680, 520.680a, 520.680b, 556.210, and 558.240 that reflect these approvals, and amends 21 CFR 558.4(d) under the "Category II" table by removing the entry for "Dimetridazole".

Dated: June 29, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-15200 Filed 7-2-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87P-0177]

Canned Pacific Salmon Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Icicle Seafoods, Inc., to market test canned skinless and boneless chunk salmon packed in water and containing sodium tripolyphosphate to inhibit protein curd formation during retorting. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than October 5, 1987.

FOR FURTHER INFORMATION CONTACT: Karen L. Carson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0110.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is

giving notice that a temporary permit has been issued to Icicle Seafoods, Inc., Seattle, WA 98199.

The permit covers limited interstate marketing tests of canned skinless and boneless chunk salmon packed in water. The test product deviates from the standard of identity for canned Pacific salmon (21 CFR 161.170) in four ways: (1) The form of pack is chunk, i.e., not less than 50 percent of the drained weight of the salmon is retained on a ½-inch mesh screen; (2) the skin and backbone, i.e., vertebrae and associated bones (neural spines and ventral ribs) are removed; (3) water, in an amount not to exceed 10 percent of the water capacity of the can, will be used as a packing medium and to aid in dispersion of salt; and (4) sodium tripolyphosphate, in an amount not to exceed 0.50 percent of the weight of the finished food including free liquid, will be used to inhibit formation of protein curd during retorting. The test product meets all requirements of § 161.170 with the exception of these deviations. The permit provides for the temporary marketing of 20,000 cases of test product containing twenty-four 6½-ounce cans each. The test product will be distributed throughout the United States.

The test product is to be manufactured at the Petersburg Fisheries plant located in Petersburg, AK 99833.

Each of the ingredients used in the food is stated on the label as required by the applicable sections of 21 CR Part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than October 5, 1987.

Dated: June 23, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-15205 Filed 7-2-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86V-0463]

Approved Variance From the Standard for Diagnostic X-Ray Systems and Their Major Components; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a variance from the performance standard for diagnostic X-ray systems and their major components has been approved by FDA's Center for Devices and Radiological Health (CDRH) for heavy-duty stretchers and beds manufactured by the Hill-Rom Co.

DATES: The variance became effective May 8, 1987, and terminates May 8, 1992.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sally Friedman, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), CDRH has granted the Hill-Rom Co., Highway 46, Batesville, IN 47006, a variance from § 1020.30(n) (21 CFR 1020.30(n)) of the performance standard for diagnostic X-ray systems and their major components for heavy-duty stretchers and beds that are used in emergency rooms, recovery rooms, and intensive care/coronary care units and that can be used to hold overweight patients during diagnostic X-ray procedures.

The specific requirement of the standard from which a variance has been granted pertains to the provision of § 1020.30(n) which states that the aluminum equivalent of each of the items listed in table II of the standard which are used between the patient and the image receptor may not exceed the indicated limits. All other provisions of the performance standard remain applicable to the product.

CDRH has determined that: (1) The requirement of § 1020.30(n) is not appropriate for heavy-duty stretchers and beds that are used to hold overweight patients during diagnostic X-ray procedures; (2) the anticipated frequency of use of these heavy-duty stretchers and beds for X-ray purposes is about 5 percent of the time; and (3) the best available estimates indicate that the increase in patient X-ray exposure due to increase in aluminum thickness to 1.5 millimeters would not exceed 10 percent over that afforded by similar products that are compliant. Thus, these heavy-duty beds and stretchers will still utilize suitable means of providing radiation safety. Therefore, on May 8, 1987, CDRH approved the requested variance by a letter to the manufacturer from the Deputy Director of CDRH.

So that the product may show evidence of the variance approved for the manufacturer, the product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) a variance number, which is the FDA docket number appearing in the heading of this notice, and the effective date of the variance.

In accordance with § 1010.4, the application and all correspondence on the application have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: June 26, 1987.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 87-15206 Filed 7-2-87; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Division of Research Resources; Biomedical Research Technology Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Research Technology Review Committee (BRTRC), Division of Research Resources (DRR), July 16, 1987, Building 31, Conference Room 8, C Wing, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on July 16 from 3 p.m. to 4 p.m. during which time there will be comments by the Director, DRR; report of the Director, BRTP; and comments by a Grants Associate on the Small Grants Program for Pilot Projects. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 8 a.m. on July 16 until 3 p.m. for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and

personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B–10, National Institutes of Health, Bethesda, MD 20892, (301) 496–5545, will provide a summary of the meeting and a roster of committee members upon request. Dr. Caroline Holloway, Executive Secretary, Biomedical Research Technology Review Committee, Division of Research Resources, Bldg. 31, Rm. 5B–41, National Institutes of Health, Bethesda, MD 20892, (310) 496–5411, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.371, Biotechnology Research, National Institutes of Health)

Dated: June 19, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–15159 Filed 7–2–87; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Cancer Therapeutics Program Project Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Therapeutics Program Project Review Committee, National Cancer Institute, National Institutes of Health, August 11, 1987, Holiday Inn-Crowne Plaza, 1750 Rockville Pike, Woodmont Room, Rockville, Maryland 20852.

This meeting will be open to the public on August 11 from 8 a.m. to 8:30 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on August 11 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual program project grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will furnish a summary of the meeting and roster of committee members upon request.

Dr. Suzanne E. Fisher, Executive Secretary, 5333 Westbard Avenue, Room 820, Bethesda, Maryland 20892 (301/496–2330) will provide other information pertaining to the meeting.

Dated: June 19, 1987.

Betty J. Beveridge,

Committee Management Office, NIH.

[FR Doc. 87–15160 Filed 7–2–87; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; National Heart, Lung, and Blood Advisory Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, September 10–11, 1987, at the National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20892.

This meeting will be open to the public from 9 a.m. to approximately 5 p.m. on September 10 for the discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and sec. 10(d) of Pub. L. 92–463, the Council meeting will be closed to the public from approximately 8:30 a.m. until adjournment on September 11 for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the Council members.

Dr. David M. Monsees, Jr., Executive Secretary of the Council, Westwood Building, Room 7A–15, (301) 496–7548, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: June 19, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–15161 Filed 7–2–87; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–87–1710; FR–2379]

Mortgage and Loan Insurance Program Under the National Housing Act—Debenture Interest Rates

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

ACTION: Notice of Change in Debenture Interest Rates.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Commissioner under the provisions of the National Housing Act (the "Act"). The interest rate for debentures issued under section 221(g)(4) of the Act during the six-month period beginning July 1, 1987, is 8¼ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the sixth-month period beginning July 1, 1987, is 9 percent.

FOR FURTHER INFORMATION CONTACT: James B. Mitchell, Financial Policy Division, Room 9132, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 426–4325 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (24 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or

mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD'S regulations at 24 CFR 203.405, 203.479, 207.259(e)(6) and 220.830. Each of these regulatory provisions states that the applicable rates of interest will be published twice each year as a notice in the Federal Register.

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the interest rate determined by the Secretary of the Treasury pursuant to a formula set out in the statute.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of section 224, that the statutory maximum interest rate for the period beginning July 1, 1987, is 9 percent and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 9 percent for the six-month period beginning July 1, 1987. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4)) with an insurance commitment or endorsement date (as applicable) within the last six months of 1987.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since July 1, 1978:

Effective rate (percent)	On or after	Prior to
7¾	July 1, 1978	Jan. 1, 1979.
8	Jan. 1, 1979	July 1, 1979.
8¼	July 1, 1979	Jan. 1, 1980.
9½	Jan. 1, 1980	July 1, 1980.
9⅛	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12⅛	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	Jan. 1, 1983.
10¼	Jan. 1, 1983	July 1, 1983.
10⅜	July 1, 1983	Jan. 1, 1984.
11½	Jan. 1, 1984	July 1, 1984.
13⅜	July 1, 1984	Jan. 1, 1985.
11⅝	Jan. 1, 1985	July 1, 1985.
11⅛	July 1, 1985	Jan. 1, 1986.
10¼	Jan. 1, 1986	July 1, 1986.
8¼	July 1, 1986	Jan. 1, 1987.
8	Jan. 1, 1987	July 1, 1987.
9	July 1, 1987	

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the "going Federal rate" in effect at the time the debentures are issued. The term "going Federal rate", as used in that paragraph, is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a formula set out in the statute, for the six-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to section 221(g)(4) during the six-month period beginning July 1, 1987, is 8¼ percent.

HUD expects to publish its next notice of change in debenture interest rates in January 1988.

The subject matter of this notice falls within the categorical exclusion from HUD's environmental clearance procedures set forth in 24 CFR 50.20(1). For that reason, no environmental finding has been prepared for this notice.

(Secs. 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 17151, 1715o; sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d)).

Dated: June 26, 1987.

James E. Schoenberger,

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

[FR Doc. 87-15226 Filed 7-2-87; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-064322-13]

Las Vegas District Advisory Council Meeting; Clark County, NV

Notice is hereby given in accordance with Pub. L. 92-463, that a meeting of the Bureau of Land Management, Las Vegas, District Advisory Council will be held July 29th and 30th.

The Advisory Council will host a "Open House" meeting for the purpose of receiving public statements and informal discussions with members of the public on July 29, 1987, in the Conference Room of the Bureau of Land Management, Las Vegas District Office, 4765 West Vegas Drive, Las Vegas, Nevada, from 7:00 p.m. until 9:00 p.m.

On July 30th, the Advisory Council will meet in the Joshua Room of the Red Rock Canyon Recreation Lands Visitor Center, located on Charleston Blvd., 17 miles west of Las Vegas, Nevada, beginning at 8:00 a.m.

The meeting agenda will include:

1. Agenda approval and review of last meeting's minutes.
2. Election of officers.
3. Program review.
4. CRMP update.
5. BLM resource protection (Law Enforcement) program.
6. Las Vegas District Fire Management program.
7. Tour of Brown Stone Canyon.
8. FY 87 Las Vegas District Wild Horse Gathering Results.

The meeting of the BLM Las Vegas District Advisory Council is open to the public. Persons wishing to appear before the Council can do so during the "Open House" meeting on July 29th, and are asked to notify the BLM Las Vegas District Manager, 4765 West Vegas Drive, P.O. Box 26569, Las Vegas, Nevada, by the close of business (4:30 p.m.) July 27, 1987.

Summary minutes of the District Advisory Council Meeting will be maintained at the BLM Las Vegas District Office.

Charles Frost,

Acting District Manager.

[FR Doc. 87-15169 Filed 7-2-87; 8:45 am]

BILLING CODE 4310-HC-M

Minerals Management Service

Development Operations Coordination Document; Matagorda Island Development Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Matagorda Island Development Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4996, Block 587, Matagorda 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 Port O'Connor, Texas.

DATE: The subject DOCD was deemed submitted on June 23, 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, 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: June 24, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-15170 Filed 7-2-87; 8:45 am]

BILLING CODE 4310-MR-M

Royalty Management Advisory Committee, Systems Improvement Working Panel; Meeting

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of Meeting.

SUMMARY: The Minerals Management Service (MMS), Royalty Management Program (RMP), hereby gives notice that the systems Improvement Working Panel, established by the Royalty Management Advisory Committee, will be meeting in Golden, Colorado, at the location and on the dates identified below.

The Systerms Improvement Working Panel was established to analyze and provide recommendations to the Advisory Committee regarding improvements to make RMP financial and production accounting systems operate more effectively. The purpose of the meetings is to identify and/or analyze specific issues such as potential software improvements to the MMS Auditing and Financial System (AFS) which is to be transferred to a mainframe computer later in 1987.

Location and dates: The Systems Improvement Working Panel will meet at the Marriott Hotel, 1717 Denver West Marriott Boulevard, Golden, Colorado 80401 on July 8–10, 20–22, and 28–31, 1987. The meetings will convene at 8:00 a.m. and adjourn at 5:00 p.m. each day, except as otherwise agreed to by the panel during the scheduled meeting days.

The public is invited to attend these meetings and to provide comments. A time will be set aside by the Panel Chairperson during the meetings when the public will be invited to make oral comments. Written comments should be submitted by July 28, 1987, to Mr. Vernon B. Ingraham at the address shown below.

FOR FURTHER INFORMATION CONTACT: Veron B. Ingraham, Minerals Management Service, Royalty Management Program, Office of External Affairs, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 651, Denver, Colorado 80225, telephone number (303) 231–3360, (FTS) 326–3360.

SUPPLEMENTARY INFORMATION: This Working Panel is composed of both Advisory Committee members and non-Committee members. The Panel was established to provide the Advisory Committee with analysis of specific issues and proposed recommendations. After its review, the Advisory Committee will then decide on the advice and recommendations to be made to the Department of the Interior and MMS. Although the Panel may meet with the Department of the Interior or MMS staff to obtain information it requires in conducting its business, the Panel's advice and recommendations will be made to the Advisory Committee and not to the Department of the Interior or MMS.

Dated: June 26, 1987.

Jerry D. Hill

Associate Director for Royalty Management.

[FR Doc. 87-15164 Filed 7-2-87; 8:45 am]

BILLING CODE 4310-MR-M

[FES 87-27]

Availability of the Final Environmental Impact Statement for Proposed Beaufort Sea Lease Sale 97; Alaska Region

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service (MMS) has prepared a final Environmental Impact Statement (EIS) relating to the proposed 1988 Outer Continental Shelf oil and gas lease sale of available unleased blocks in the Beaufort Sea.

Single copies of the final EIS can be obtained from the Regional Director, Minerals Management Service, Alaska Region, 949 East 36th Avenue, Anchorage, Alaska 99508–4302, Attention: Public Information. Copies can also be requested by telephone, (907) 261–4435.

Copies of the final EIS will also be available for inspection in the following public libraries: Arctic Environmental Information and Data Center, University of Alaska, 707 A Street, Anchorage, Alaska; Army Corps of Engineers Library, U.S. Department of Defense, Anchorage, Alaska; Alaska Resources Library, U.S. Department of the Interior, Anchorage, Alaska; University of Alaska, Anchorage Consortium Library, 3211 Providence Drive, Anchorage, Alaska; Fairbanks North Star Borough Public Library (Noel Wien Library), 1215 Cowles Street, Fairbanks, Alaska; Elmer E. Rasmuson Library, 310 Tanana Drive, Fairbanks, Alaska; Alaska State Library, Juneau, Alaska; Alaska Field Operation Center Library, U.S. Department of Interior, Bureau of Mines, Juneau, Alaska; Juneau Memorial Library, 114 - 4th Street, Anchorage, Alaska; Kenai Community Library, 163 Main Street Loop, Kenai, Alaska; University of Alaska-Juneau Library, 11120 Glacier Highway, Juneau, Alaska; Kettleson Memorial Library, Sitka, Alaska; Soldotna Public Library, 235 Binkley Street, Soldotna, Alaska; Alakanuk Public Library, Alakanuk, Alaska; North Slope Borough School District Library/ Media Center, Barrow, Alaska; Brevig Mission Community Library, Brevig Mission, Alaska; Buckland Public Library, Buckland, Alaska; Davis Menadelook Memorial H.S. Library, Diomede, Alaska; Elim Community Library, Elim, Alaska; Northern Alaska Environmental Center Library, 218 Driveway, Fairbanks, Alaska; University of Alaska, Fairbanks, Institute of Arctic Biology, 311 Irving Building, Fairbanks, Alaska; Gambell Community Library/ Learning Center, Gambell, Alaska; Golovin Community Library, Golovin, Alaska; Kaveolook School Library, Kaktovik, Alaska; Kiana Elementary School Library, Kiana, Alaska; McQueen School Library, Kivalina, Alaska; George Francis Memorial Library, Kotzebue, Alaska; Koyuk City Library, Koyuk, Alaska; Kegoayah Kozga Public Library, Nome, Alaska; Noorvik Elementary/High School Library, Noorvik, Alaska; Tikigaq Library, Point Hope, Alaska; Savoonga Community Library, Savoonga, Alaska; Shaktoolik School Library, Shaktoolik, Alaska; Nellie Weyiouanna Ilisaavik Library, Shishmaref, Alaska; Stebbins Community Library, Stebbins, Alaska; Ticasuk Library, Unalakleet, Alaska; Kingikme Public Library, Wales, Alaska; and Nuiqsut Library, Nuiqsut, Alaska.

Dated: June 29, 1987.

David W. Crow,

Deputy Director, Minerals Management Service.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 87-15143 Filed 7-2-87; 8:45 am]

BILLING CODE 4320-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31034]

Exemption—Acquisition for Sale of Union Railroad of Oregon by Kyle Railways, Inc.

Kyle Railways, Inc. (Kyle), a noncarrier, has filed a notice of exemption to acquire the entire Union Railroad of Oregon and resell it immediately to Union Rail Enterprises, Inc., a noncarrier which has concurrently filed a notice of exemption in Finance Docket No. 31050 to acquire the assets of Union Railroad of Oregon from Kyle and to operate that property. The property consists of the entire line of 2.1 miles of railroad between Union Junction (milepost 0) and Union, OR (milepost 2). Any comments must be filed with the Commission and served on Victor D. Ryerson, 221 World Trade Center, San Francisco, CA 94111.[1]

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: June 30, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-15285 Filed 7-2-87; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-285-X]

Exemption; Abandonment Exemption in White County, NV; Nevada Northern Railway Company

The Nevada Northern Railway Company has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 32-mile line of railroad between milepost 128 near McGill Junction, NV and milepost 148 near Copper Flat, NV, including the two spur lines to McGill, NV and the spur line to East Ely, NV in White Pine County, NV.[1]

Applicant has certified (1) that 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) that no formal complaint filed by a user or 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.

Applicant has filed an environmental report which shows that no significant environmental or energy impacts are likely to result from this abandonment.

Usually, as a condition to use of an abandonment exemption, any employee affected by the abandonment would be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). However, as here, when a carrier abandons its entire remaining line of railroad the Commission has consistently declined to impose conditions for the protection of employees unless the evidence shows the existence of: (1) A corporate affiliate that will continue substantially similar rail operations, or (2) a corporate parent that will realize substantial financial benefits over and above relief from the burden of deficit operations by its subsidiary railroad. *See Northampton and Bath R. Co.—Abandonment*, 354 I.C.C. 784 (1979); Docket No. AB-237 (Sub-No. 1X), *Pend O. V. R. R., Inc.—Discontinuance of Service Exemption—Pend Oreille County, WA* (not printed), served September 18, 1984; and *Railway Labor Executives' Ass'n. I.C.C.*, 735 F.2d 691 (2nd Cir. 1984). Here there is no evidence that either applicant's corporate parent, The Standard Oil Company, will realize substantial financial benefit over and above relief from the burden of deficit operation by its subsidicary railroad or that a corporate affiliate will continue substantially similar operations. Accordingly, labor protective conditions will not be imposed.

The exemption will be effective August 5, 1987 (unless stayed pending reconsideration). Petitions to stay must be filed by July 16, 1987, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by July 27, 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 representatives:

Earl C. Tingey, Esquire, Assistant Chief Counsel, P.O. Box 11248, Salt Lake City, UT 84147

and

John K. Maser III, Esquire, Donelan, Cleary, Wood & Maser, P.C., 1275 K Street, NW., Suite 850, Washington, DC 20005-4006

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: June 29, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-15287 Filed 7-2-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31050]

Exemption—Acquisition and Operation of Union Railroad of Oregon by Union Rail Enterprises, Inc.

Union Rail Enterprises, Inc. (Enterprises), a noncarrier and a wholly owned subsidiary of WDT Industries, Inc., has filed a notice of exemption to acquire the entire Union Railroad of Oregon from Kyle Railways, Inc. (Kyle), and to operate that property. Kyle, a noncarrier, has concurrently filed a notice of exemption in Finance Docket No. 31034 to acquire the assets of Union Railroad of Oregon and resell them immediately to Enterprises. The property consists of the entire line of 2.1 miles of railroad between Union Junction (milepost 0) and Union, OR (milepost 2). Any comments must be filed with the Commission and served on John M. Burns, P.O. Box 5805, Portland, OR 97228.[1]

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[1] The Railway Labor Executives' Association (RLEA) and the United Transportation Union (UTU) filed unsupported requests for labor protection claiming that this transaction is subject to the mandatory labor protection provisions of 49 U.S.C. 11347. Since the transaction involves an exemption from 49 U.S.C. 10901, only a showing of exceptional circumstances will justify the imposition of labor protective conditions. The requests of RLEA and UTU are denied, because the requisite showing has not been made. *See Class Exemption—Acq. & Oper. of R. Lines under 49 U.S.C. 10901, 1 I.C.C.2d 810 (1985).*

[1] The Commission by Notice of Exemption in Finance Docket No. 31030, *Department of Water and Power of The City of Los Angeles—Acquisition and Operation Exemption—The Nevada Northern Railway Company* (not printed), serve June 8, 1987 and published in the **Federal Register** on June 8, 1987, exempted under 49 CFR 1150.31 acquisition by the Department of Water and Power of the City of Los Angeles of the applicant's line between Cobre Junction and McGill Junction, NV (milepost 0.0 to milepost 128), a total distance of 128 miles.

[1] The Railway Labor Executives' Association (RLEA) and the United Transportation Union (UTU) filed unsupported requests for labor protection claiming that this transaction is subject to the

Continued

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: June 30, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-15286 Filed 7-2-87; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

June 29, 1987.

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Minden Terminal, Inc.—Parent corporation, P.O. Box 177, E. Highway 6, Minden, Nebraska 68959 (Nebraska—State of Incorporation)
2. Kearney Ag Center, Inc.—Wholly-owned subsidiary, P.O. Box 997, 2601 Avenue "N", Kearney, Nebraska 68848 (Nebraska—State of Incorporation)

Noreta R. McGee,

Secretary.

[FR Doc. 87-15188 Filed 7-2-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-19,445].

Dismissal of Application for Reconsideration; Pacific Chloride, Inc., Beaverton, OR

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Pacific Chloride, Incorporated, Beaverton, Oregon. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-19,445; Pacific Chloride, Incorporated Beaverton, Oregon (June 24, 1987)

Signed at Washington, DC, this 25th day of June 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-15267 Filed 7-2-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19,445]

Dismissal of application for Reconsideration; Pilkington-Electro-Opt-Communications Systems, Simi, Valley, CA

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the director of the Office of Trade Adjustment Assistance for workers at Pilkington-Electro-Opt Communications Systems, Simi Valley, California. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-19,635; Pilkington-Electro-Opt-Communications Systems Simi Valley, California (June 24, 1987)

Signed at Washington, DC, this 25th day of June 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-15268 Filed 7-2-87; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is

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mandatory labor protection provisions of 49 U.S.C. 11347. Since the transaction involves an exemption from 49 U.S.C 10901, only a showing of exceptional circumstances will justify the imposition of labor protective conditions. The requests of RLEA and UTU are denied, because the requisite showing has not been made. *See Class Exemption—Acq. & Oper. of R. Lines Under 49 U.S.C. 10901.* 1 I.C.C.2d 810 (1985).

encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut:
CT87-1 (Jan. 2, 1987) ..... pp. 70-82.
District of Columbia:
DC87-1 (Jan. 2, 1987) ..... p. 89.
Massachusetts:
MA87-1 (Jan. 2, 1987) ..... pp. 372-374.
MA87-2 (Jan. 2, 1987) ..... pp. 388-389.
MA87-3 (Jan. 2, 1987) ..... pp. 402, 404.
New Jersey:
NJ87-2 (Jan. 2, 1987) ..... p. 616.
Pennsylvania:
PA87-1 (Jan. 2, 1987) ..... pp. 844, 846.
PA87-2 (Jan. 2, 1987) ..... pp. 856-858.
PA87-7 (Jan. 2, 1987) ..... pp. 906-908.

Volume II

Kansas:
KS87-8 (Jan. 2, 1987) ..... p. 356.
Minnesota:
MN87-7 (Jan. 2, 1987) ..... pp. 544, 546.
MN87-8 (Jan. 2, 1987) ..... pp. 562-567.
Ohio:
OH87-1 (Jan. 2, 1987 ..... pp. 720-723.
OH87-28 (Jan. 2, 1987) ..... pp. 812, 814.
Oklahoma:
OK87-16 (Jan. 2, 1987) ..... p. 912b.
Texas:
TX87-2 (Jan. 2, 1987) ..... pp. 918-920.
TX87-7 (Jan. 2, 1987) ..... p. 938.

Volume III

California:
CA87-4 (Jan. 2, 1987) ..... pp. 69-70.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 26th day of June 1987.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 87-14937 Filed 7-2-87; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either or both of the following: That an alternate method exists at the petitioner's mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard to the petitioner's mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register.** Final decisions on these petitions are based upon the petitioner's statement, comments and information submitted by interested persons and a field investigation of the conditions at the petitioner's mine. The Secretary has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon the petitioner's compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: The petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: June 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION

Docket No.	FR Notice	Petitioner	Reg Affected	Summary of Findings
M-81-48-C	49 FR 46826	KRK Coal Company	30 CFR 75.1714	Petitioner's proposal to use filtertype self-rescuers in lieu of self-contained self-rescuers considered acceptable alternate method. Granted with conditions.
M-81-62-C	49 FR 9974	R and W Coal Company (Formerly Last Try Coal Co.).	30 CFR 75.1714	Petitioner's proposal to use filtertype self-rescuers in lieu of self-contained self-rescuers considered acceptable alternate method. Granted with conditions.
M-81-66-C	49 FR 10390	A and D Coal Company (Formerly KLM Coal Co.).	30 CFR 75.1714	Petitioner's proposal to use filtertype self-rescuers in lieu of self-contained self-rescuers considered acceptable alternate method. Granted with conditions.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

Docket No.	FR Notice	Petitioner	Reg Affected	Summary of Findings
M-81-95-C	49 FR 10388	Chestnut Coal Company	30 CFR 75.1714	Petitioner's proposal to use filtertype self-rescuers in lieu of self-contained self-rescuers considered acceptable alternate method. Granted with conditions.
M-81-106-C	49 FR 10391	Raven Coal Company	30 CFR 75.1714	Petitioner's proposal to use filtertype self-rescuers in lieu of self-contained self-rescuers considered acceptable alternate method. Granted with conditions.
M-81-252-C	51 FR 6603	Freeman United Coal Mining Company.	30 CFR 75.503	Use of the "OBOE Plug Box Option" in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-82-128-C	49 FR 11028	S and R Coal Company (Formerly M and S Coal Co.).	30 CFR 75.1714	Petitioner's proposal to use filtertype self-rescuers in lieu of self-contained self-rescuers considered acceptable alternate method. Granted with conditions.
M-83-142-C	49 FR 679	Maple Leaf Mining	30 CFR 75.1714	Petitioner's proposal to use filtertype self-rescuers in lieu of self-contained self-rescuers considered acceptable alternate method. Granted with conditions.
M-84-247-C	50 FR 570	Consolidation Coal Company	30 CFR 75.902	Petitioner's proposal to design an install low- and medium-voltage, 3 phase, alternating current, resistance grounded circuits underground without ground wire monitoring with specific conditions considered acceptable alternate method. Granted with conditions.
M-84-256-C	50 FR 573	Neumeister Coal Co	30 CFR 75.1714	Petitioner's proposal to use filtertype self-rescuers in lieu of self-contained self-rescuers considered acceptable alternate method. Granted with conditions.
M-85-76-C	50 FR 33123	Swift Coal Company	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted.
M-85-167-C	51 FR 10697	Kenneth Rothermel Coal Co., Inc	30 CFR 75.301	Proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.
M-85-184-C	51 FR 1586	Clinchfield Coal Co	30 CFR 75.1105	Petitioner's proposal to locate transformers and high voltage vacuum circuit breakers in the belt entry splits of air equipped with an early warning fire detection system with specific conditions considered acceptable alternate method. Granted with conditions.
M-85-189-C	51 FR 3278	Kerr-McGee Coal Corp	30 CFR 75.902	Petitioner's proposal to construct underground shops and distribute power through the use of standard panel boxes as would be used in a surface application with specific safeguards and conditions considered acceptable alternate method. Granted with conditions.
M-85-190-C	51 FR 4047	Kitt Energy Corp	30 CFR 75.1002	Petitioner's proposal to install a longwall mining unit with cables and equipment designed to conduct 2300 volts A.C. to be located and used inby the last open crosscut and within 150 feet of pillar workings, with specific equipment and conditions, considered acceptable alternate method. Granted with conditions.
M-85-199-C	51 FR 8380	Skidmore Coal Co	30 CFR 75.301	Proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.
M-85-201-C	51 FR 8376	Consolidation Coal Company	30 CFR 75.305	Petitioner's proposal to establish three monitoring stations where the air leaves the affected areas and to have certified persons take air and gas measurements on a weekly basis considered acceptable alternate method. Granted with conditions.
M-85-203-C	51 FR 6603	Big Hill Coal Co	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result ina diminution of safety. Granted in part.
M-86-4-C	51 FR 8376	Badger Coal Company	30 CFR 75.503	Petitioner's proposal to use a spring-loaded pin in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles as permissible, mobile, battery-powered machines considered acceptable alternat method. Granted with conditions.
M-86-7-C	51 FR 8379	Saginaw Mining Co	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-12-C	51 FR 12943	C and R Coal Company	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part.
M-96-15-C	51 FR 11848	F and S Coal Company	30 CFR 75.301	Proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.
M-86-17-C	51 FR 11850	The NACCO Mining Co	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-21-C	51 FR 11849	Kitt Energy Corp	30 CFR 75.503	Petitioner's proposal to use a spring-loaded lock-down device in lieu fo a padlock to secure battery plugs to prevent unintentional loosening considered acceptable alternate method. Granted with conditions.
M-86-23-C	51 FR 11847	Eastern Assoicated Coal Corp	30 CFR 75.1105	Petitioner's proposal to install dry chemical fire suppression devices on the booster drive transformers in 1 Left Sub-Mains, in addition to the existing fire extinguishing devices and materials considered acceptable alternate method. Granted with conditions.
M-86-25-C	51 FR 11851	Vantage Mining Co	30 CFR 75.305	Petitioner's proposal to establish two evaluation points to monitor the air quantity and quality considered acceptable alternate method. Granted with conditions.
M-86-28-C	51 FR 12943	Consolidation Coal Company	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-30-C	51 FR 36877	K-Lin Coal Co., Inc	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted with conditions.
M-86-35-C	51 FR 11994	Eastern Associated Coal Corp	30 CFR 75.305	Petitioner's proposal to establish and maintain two special ventilation check points that would be examined daily by a certified person considered acceptable alternate method. Granted with conditions.
M-86-36-C	51 FR 11995	Peadoby Coal Co	30 CFR 75.305	Petitioner's proposal to establish three points were weekly examinations can be made of a specific seal and aircourses considered acceptable alternate method. Granted with conditions.
M-86-40-C	51 FR 11848	Island Creek Corp	30 CFR 75.1100-3	Petitioner's proposal to install an electric solenoid switch in the water line servicing the fire suppression system and heat sensors over the drive considered acceptable alternate method. Granted with conditions.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

Docket No.	FR Notice	Petitioner	Reg Affected	Summary of Findings
M-86-41-C	51 FR 11994	Maple Meadow Mining Company	30 CFR 75.305	Petitioner's proposal to establish monitoring stations at specific locations where a certified person will take air readings and make visual examinations weekly considered acceptable alternate method. Granted with conditions.
M-86-42-C	51 FR 13115	Laurel Ridge Coal Co	30 CFR 75.503	Petitioner's proposal to use metal locking devices consisting of a fabricated metal bracket and a metal locking screw in lieu of padlocks to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and to prevent accidental loss considered acceptable alternate method. Granted with conditions.
M-86-45-C	51 FR 17559	Pine Creek Mining Inc	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-46-C	51 FR 12943	Consolidation Coal Company	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-47-C	51 FR 18970	Whitaker Coal Corp	30 CFR 75.305	Petitioner's proposal to establish ventilation check points at specific locations considered acceptable alternate method. Granted with conditions.
M-86-49-C	51 FR 13114	Consolidation Coal Company	30 CFR 75.326	Use of air from the belt entry to ventilate active working places and planned longwall panels and installation of a low-level carbon monoxide detection system with specific conditions in all belt entries used as intake aircourses considered acceptable alternate method. Granted with conditions.
M-86-65-C	51 FR 20364	Consolidation Coal Company	30 CFR 75.1105	Petitioner's proposal to house pumps in sealed fireproof enclosures with steel doors with a dry powder chemical fire extinguisher mounted over the pump, and to course the intake air ventilating these enclosures outside by use of specified fans considered acceptable alternate method. Granted with conditions.
M-86-68-C	51 FR 26773	BethEnergy Mines, Inc	30 CFR 75.1700	Petitioner's proposal to plug and mine through abandoned wells penetrating the coal beds considered acceptable alternate method. Granted with conditions.
M-86-72-C	51 FR 21992	Rock Bull Mining, Inc	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-77-C	51 FR 26957	Kymcoal, Inc	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-80-C	51 FR 27609	M & J Coal Co., Inc	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-81-C	51 FR 26775	Roblee Coal Company	30 CFR 75.503	Use of a spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-84-C	51 FR 26774	Empire Coad Company	30 CFR 77.213	Petitioner's proposal to inspect the draw-off tunnel for fire or smoke prior to entry, check methane gas levels, to keep one crew member above surface at all times equipped with a portable radio, and to provide a self-contained, self-rescue device at the base of the tunnel considered acceptable alternate method. Granted with conditions.
M-86-85-C	51 FR 27610	Omega Mining Company, Inc	30 CFR 75.503	Use of a metal bracket and a metal locking device (harness snap) in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-86-C	51 FR 26958	Viking Coal Company, Inc	30 CFR 75.503	Use of a metal bracket and a metal locking device (harness snap) in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-86-91-C	51 FR 26957	R & D Coal Company	30 CFR 75.1405	Petitioner's proposal to use a chain and hook on top of the buggie to couple and uncouple the mine cars considered acceptable alternate method. Granted.
M-86-101-C	51 FR 26774	Gateway Coal Co	30 CFR 75.305	Petitioner's proposal to establish an air measuring station where a certified person would make weekly examinations of the ventilation and methane considered acceptable alternate method. Granted with conditions.
M-86-106-C	51 FR 26957	12 Vein Coal Company	30 CFR 75.1400	Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device considered acceptable alternate method. Granted with conditions.
M-86-113-C	51 FR 33819	Betty B. Coal Company	30 CFR 75.1103-4(a)	Petitioner's proposal to use an early warning fire detection system using a low-level carbon monoxide detection system in lieu of a heat detection system considered acceptable alternate method. Granted with conditions.
M-86-114-C	51 FR 33819	Betty B. Coal Company	30 CFR 75.326	Petitioner' proposal to use the belt entry as an intake airway and to install a low-level carbon monoxide system in all belt entries used as intake aircourses and at each belt drive and tailpices located in intake aircourses except in specified situations considered acceptable alternate method. Granted with conditions.
M-86-120-C	51 FR 33821	Quarto Mining Company	30 CFR 75.1002	Petitioner's proposal to use high-voltage (4,160 volt) cables to supply power to permissible longwall face equipment in or inby the last open crosscut, with specific equipment and conditions, considered acceptable alternate method. Granted.
M-86-124-C	51 FR 28906	Cimeron Minerals, Inc	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heighs would result in a diminution of safety. Granted in part.
M-86-167-C	51 FR 42663	Clinchfield Coal Company	30 CFR 75.326	Petitioner's proposal to use all entries as airways and to install a carbon monoxide (CO) detection system in all belt entries used as intake aircourses and at each belt drive and tailpiece located in intake aircourses considered acceptable alternate method. Granted with conditions.
M-85-13-M	50 FR 46709	Fisher Sand and Gravel Company	20 CFR 56.12028	Petitioner's proposal to install multiple ground rods and to perform visual inspections and test continuity each time as plant is moved in lieu of annual testing considered acceptable alternate method. Granted with conditions.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

Docket No.	FR Notice	Petitioner	Reg Affected	Summary of Findings
M-85-22-M	50 FR 53214	The General Crushed Stone Company.	30 CFR 56.9087	Petitioner's proposal to use high intensity blue strobe lights on front end loaders in lieu of audible back-up alarms after 6:00 p.m., and to instruct the truck operator to sound the horn when backing up a haul truck considered acceptable alternate method. Granted with conditions.
M-85-26-M	51 FR 3280	Umetco Minerals Corp	30 CFR 57.9022	Petitioner's proposal to enforce a maximum speed limit of 15 miles per hour on the roads, to require inspectors to carry a two-way radio for communications when traveling alone and when road conditions are slick or muddy, to limit travel on the dike roads to that whch is absolutely necessary, and depending on conditions, and require four-wheel-drive vehicles or chains considered acceptable alternate method. Granted with conditions.
M-85-30-M	51 FR 6604	Western Nuclear, Inc	30 CFR 57.19023	Petitioner's proposal to visually inspect wire ropes on a bi-monthly basis in lieu of every fourteen days considered acceptable alternate method. Granted with conditions.
M-86-3-M	51 FR 8377	Homestake Mining Co	30 CFR 57.14029	Petitioner's proposal to replae worn out brushes on the generators of the Ross and Yates Hoist MG sets while the power is off but the armatures are rotating considered acceptable alternate method. Granted with conditions.
M-86-5-M	51 FR 11994	Homestake Mining Co	30 CFR 57.6195	Petitioner's proposal to use an alluminum ammonium nitrate loading probe attached to semiconductive hose which would extend back to the loading machine, with specific conditions, considered acceptable alternate method. Granted with conditions.
M-86-6-M	51 FR 13115	Northwest Aggregates Co	30 CFR 56. 9087	Petitioner's proposal to mount a high intensity capacitive discharge light on the rear of the mobile equipment to be switched on at night and to switch the audible alarm back on during the normal working hours considered acceptable alternate method. Granted with conditions.

[FR Doc. 87-15271 Filed 7-2-87; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-87-104-C]

Petition for Modification of Application of Mandatory Safety Standard; Action Energies, Inc.

Action Energies, Inc., P.O. Box 3219, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mine No. 5 (I.D. No. 15-09727) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that due to the age of the mine, deterioration of the roof and return aircourses and roof falls, certain areas of the mine cannot be safely traveled. To attempt to restore these areas would be exposing miners to hazardous conditions.

3. Petitioner further states that the return entries are not used as escapeways and no miners or materials pass through them. They serve as a passageway for return air and are necessary for ventilation.

4. As an alternate method, petitioner proposes to establish measurement stations where air and methane readings can be taken. In support of this request, petitioner states that:

(a) The mine is located above the water table and methane has not been detected;

(b) The mine is ventilated by use of the exhaust ventilation systems;

(c) The belt haulage entry is wet and is used as the secondary means of entering and exiting the underground area and is traveled several times daily by a certified foreman. A belf person is on duty at all times when coal is being produced;

(d) A high pressure water line fire sensor and firefighting equipment will be maintained; and

(e) The ventilating current is directed along the entry next to the belt line on the return side of the stopping line. Any smoke or sign of fire should be readily observed by a person who is on duty on the mine surface when persons are underground.

5. For these reasons, petitioner requests a modification of the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virgina 22203. All comments must be postmarked or received in that office on or before August 5, 1987. Copies of the petition are available for inspection at that address.

Dated: June 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-15269 Filed 7-2-87; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-87-108-C]

Petition for Modification of Application of Mandatory Safety Standard; Buck Mountain Coal Co.

Buck Mountain Coal Company, P.O. Box 6, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its Buck Mountain Slope (I.D. No. 36-01962) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that track haulage cars be equipped with automatic couplers.

2. Petitioner states that installation of automatic couplers on the track haulage cars would result in a diminution of safety to the miners affected due to the sharp radius curves in the track, the undulating pitch of the slopes, the different types of small lightweight cars, and the system of haulage.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 5, 1987. Copies of the petition are available for inspection at that address.

Dated: June 19, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-1527 Filed 7-2-87; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

[Application No. D-6725 et al.]

Proposed Exemptions; Wichita Falls Clinic Employees Profit Sharing Plan and Trust, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices or pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons area referred to the applications on file with the Department for a complete statement of the facts and representations.

Wichita Falls Clinic Employees Profit Sharing Plan and Trust (the Plan), Located in Wichita Falls, Texas

[Application No. D-6725]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of certain improved real property (the Real Property) to a partnership (the Acquiring Partnership), a party in interest with respect to the Plan, provided the sales price is the greater of the fair market value of the Real Property or the historical costs incurred by the Plan in its ownership of the Real Property.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 191 participants and total assets of $7,205,730 as of December 31, 1986. The trustees of the Plan (the Trustees) are Drs. Grant Hulse Wagner, Cecil H. Meares, David S. Huang, Rick Yi Ho and John B. Milor.

2. Currently, the assets of the Plan are held in three funds (the Funds). They are the Self-Directed Fund (the Self-Directed Fund), the Building Fund (the Building Fund) and the Commingled Fund (the Commingled Fund). Individual participants direct the investment of their assets in the Self-Directed Fund. The Building Fund is managed by the Trustees. The remaining assets, held by the Commingled Fund and comprising approximately 65 percent of the Plan's assets, are managed by two investment managers.

3. Wichita Falls Clinic (the Employer), a general partnership organized and operating under the laws of the State of Texas, is the sponsor of the Plan. The Employer maintains its principal place of business at 501 Midwestern Parkway East, Wichita Falls, Texas. The Employer is engaged in the practice of medicine and its staff includes 37 physicians who are partners in the Employer and other personnel. The partners of the Employer hold partnership interest ranging from 1 percent to 11 percent. As of December 31, 1985, these individuals had a collective net worth in excess of $6 million.

4. The Building Partnership (the Building Partnership) is a real estate general partnership also organized and operated under the laws of the State of Texas. Of the sixteen partners that comprise the Building Partnership, fourteen are partners of the Employer. The Acquiring Partnership, which will be formed upon the granting of the proposed exemption, will be a Texas general real estate partnership. The partners of the Acquiring Partnership will include some or all, but will not necessarily be limited to, persons who own an interest in the Employer or the Building Partnership.

5. On November 4, 1980, the Department granted Prohibited Transaction Exemption (PTE) 80-78 at 45 FR 73199. PTE 80-78 permitted the Plan to purchase a three story building and adjacent real property from the Building Partnership for a total purchase price of $1,980,000. (The Real Property had an independently appraised value of $2,200,000 as of July 11, 1978.) The purchase price included the total of all existing liens on the Real Property (the Third Party Notes) equaling $1,112,255 and a promissory note (the Note) given by the Plan to the Building Partnership in the amount of $867,744 representing the equity portion of the purchase price.[1] The Plan was not required to make any downpayment.

[1] The $220,000 difference between the fair market value of the Real Property and the sale price in the

Continued

The Third Party Notes remained obligations of the Building Partnership with the conveyance made "subject to" such liens. The Plan did not assume the Third Party Notes. The Plan, however, is required to make payments on the Third Party Notes as well as on the Note. The Third Party Notes and the Note are secured by a deed of trust on the Real Property. On December 31, 1985, the outstanding principle balances of the Third Party Notes and the Note were $835,540 and $521,434, respectively. According to the Trustees, monthly payments due under the Third Party Notes and the Note continue and all payments have been timely made.

PTE 80–78 also permitted the Employer to enter into a triple net lease (the Lease) of the Real Property with the plan. The Lease has an initial term of 15 years, requires a floating monthly rental of 1.05 percent of the appraised value of the Real Property, determined periodically, and it provides for a minimum guaranteed rent that will be sufficient to amortize the existing indebtedness due under the Third Party Notes and the Note. In the event the Employer defaults on the Lease, the Plan is not obligated to satisfy its indebtedness under the Third Party Notes or the Note. The Trustees may sell the premises and pay off the purchase obligations or void the Lease, return the premises to the Building Partnership and disregard the unpaid balance of the Third Party Notes and the Note with additional liability. The Lease is monitored by Freeman, Shapard and Story, a public accounting firm located in Wichita Fallas, Texas, in the capacity of the independent fiduciary. According to the Trustees, all rental payments due under the Lease have been timely made by the Employer.

6. Following the Plan's acquisition of the Real Property under the terms of PTE 80–78, all expenses in connection therewith were paid by the Employer. However, in May 1983, certain valuable improvements (the Improvements) in the form of an addition to the building comprising part of the Real Property, were made by the Plan. The total cost of the Improvements was $1,239,423. The Improvements were fully financed by a loan made to the Plan by MBank Wichita Falls, N.A., an unrelated entity. As of December 31, 1985, there was an outstanding principal balance on the loan of $1,053,509. According to the Trustees, payments on this loan have been timely made.

It is represented that the Trustees determined the Improvements were necessary to protect the viability of the Plan's investment in the Real Property. Further, the Trustees believed the Improvements would stimulate the Building Fund's overall performance through greater capital appreciation. As economic circumstances developed, the increase in fair market value of the Real Property did not correspond fully to the cost of the Improvements. Thus, an unrealized loss to the Real Property occurred.[2]

7. The Trustees anticipate the need for further additions and improvements to the Real Property. They explain that these renovations will make the Real Property represent a greater percentage of the Plan's assets. To avoid this result, the Trustees propose to have the Plan sell the Real Property to the Acquiring Partnership. The contractual sales price, which will be paid in cash, will be based on the greater of the fair market value of the Real Property as of the date of the transaction as established by an independent appraiser or the historical costs incurred by the Plan in its ownershp of the Real Property. On March 12, 1986, Mr. Tony Saulsbury, M.A.I., S.R.P.A., an independent appraiser from Wichita Falls, Texas, placed the fair market value of the Real Property at $4 million. The historical costs of the Plan, which are approximately $3,219,423, include the $1,980,000 acquisition cost and $1,239,423 for the Improvements. The Plan will not be required to pay any real estate fees or commissions in conection with the proposed sale. Finally, the Plan will satisfy its indebtedness to the Building Partnership out of the sale proceeds and it will be released from all obligations in connection therewith.

8. In summary, it is represented that the proposed transaction will satisfy the criteria for an exemption under section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the sales price will be the greater of the independently appraised value of the Real Property or the historical costs incurred by the Plan during its ownership of the Real Property; (c) the Plan will not be required to pay any real estate fees or commissions in connection with the proposed sale; (d) the Plan will be released from its obligations under the Third Party Notes and the Notes; (e) the Plan will be able to divest itself of the Real Property and diversify its investment of the net sale proceeds into more readily marketable assets assuring increased liquidity; and (f) within 90 days of the publication in the **Federal Register** of the grant of the notice of proposed exemption, the Employer will file Form 5330 with the Service and pay all applicable excise taxes that are due by reason of its continued leasing of the Real Property.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8196. (This is not a toll-free number.)

William L. Streitz, MD., P.C. Profit Sharing and Retirement Plan (the Plan), Located in Roseburg, Oregon

[Application No. D–6735]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of certain real property by the Plan to William L. Streitz, M.D. (Dr. Streitz), a party in interest with respect to the Plan, provided the terms of the transaction are as favorable to the Plan as those obtainable by the Plan in an arm's-length transaction with an unrelated party on the date the transaction is consummated.

Summary of Facts and Representations

1. The Plan is a combined money purchase pension and profit sharing plan with an estimated six participants. The Plan had total assets of $800,000 as of September 4, 1986. The trustee of the Plan is Dr. Streitz. Dr. Streitz is also the principal shareholder of William L. Streitz, M.D., P.C. (the Employer).

2. On July 21, 1981, a partnership was formed for the purpose of acquiring undeveloped commercial property (the Property) as an investment. The name of the partnership is the Roberts Industrial Center Joint Venture (the Partnership).

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subject transaction was treated as an Employer contribution to the Plan in conformance with the applicable provisions of sections 401(a)(4), 404 and 415 of the Code.

[2] The applicants recognize that the construction of the Improvements and the leasing of the Improvements by the Plan to the Employer were not transactions within the scope of PTE 80–78 and may have resulted in a substantial modification of the Lease and the overall provisions of PTE 80–78. Such Improvements were made without the Employer's obtaining an administrative exemption under section 408(a) of the Act from the Department. Accordingly, the Employer represents that it will prepare Form 5330 with respect to the Lease after May 1983 and it will file such form with the Internal Revenue Service (the Service) and pay all applicable excise taxes within 90 days of the publication in the **Federal Register** of the grant of the notice of proposed exemption.

The partners of the Partnership were unrelated to the Plan and the Employer. The Plan acquired a one-sixth interest (16.67%) interest in the Partnership (the Interest) from one of the existing partners, L.G. Campbell Company, on September 14, 1981, for a purchase price of $71,337 cash, plus assumption of one-sixth of the Partnership liabilities.

3. Due to a severe downturn in the market for real estate, the Property has declined in value and the corresponding decline in the value of the Interest has had a severe impact on the financial well being of the Plan. In addition, the Plan has been required to make additional cash payments to the Partnership in order to maintain and protect the property. As of July 1986, the Plan had invested a total of $213,853 in the Property ($166,353 in cash invested in the Interest and $47,500 interest paid in connection with the Interest). At the present time, the Property continues to decline in value. Further, efforts to sell the Property continues to decline in value. Further, efforts to sell the Property to unrelated parties have been unsuccessful. By letter of May 6, 1986, Mr. Jeff Elder of Campbell Company Realtors advised that his company had been unable to secure a qualified buyer for the Property during the preceding year. The applicant represents that the Plan will lose approximately $15,000 to $20,000 annually if the Plan is unable to sell the Interest.

4. It is proposed that Dr. Streitz purchase the Interest from the Plan. The proposed purchase price is $47,500. This amount will be paid in cash. The purchase price is based upon an independent appraisal of the Property performed by John H., Brown, M.A.I., located in Eugene, Oregon (the Appraiser). The Appraiser has determined that the fair market value of the Property is $285,000. Thus, the Interest (16.67 percent of the value of the Property) is valued at $47,500 (in rounded figures).

5. The $47,500 purchase price will be allocated in such a manner so as to reinstate to the accounts of all of the participants (excluding Dr. Streitz) all monies paid out for the Investment. The account of Dr. Streitz, representing approximately a 92 percent interest in the Plan, will be the only account to suffer a loss as a result of investing in the Interest.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) because:

(a) It will be a one-time cash transaction;

(b) The Plan will receive fair market value for the Interest as determined by an independent appraiser;

(c) With the exception of Dr. Streitz, the Plan participants will be compensated for any losses incurred from investing in the Interest, and

(d) The Plan will be able to dispose of an unmarketable asset which continues to decline in value.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of ther Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feaible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 29th day of June, 1987.

Elliot I. Daniel,

Associate Director for Regulations and Interpretations, Pension and Welfare Benefit Administration, U.S. Department of Labor.

[FR Doc. 87–15151 Filed 7–2–87; 8:45 am]

BILING CODE 4510–29–M

NATIONAL SCIENCE FOUNDATION

Grants; Young Scholars Projects for High Ability and High Potential Secondary School Students; Guidelines for Proposal Submission

Introduction

The Research Career Development Division of the Directorate for Science and Engineering Education (SEE) manages and coordinates a variety of programmatic efforts that aid young men and women in their development toward productive research and teaching careers in science, mathematics and engineering. Each effort, in its own way, focuses on a period in the lives of such students during which important career options must be analyzed and critical choices made. The designation of a field of specialization, selection of a graduate school, and choice of first employing organization are decisions made during periods targeted by current Division activities—periods when a modest amount of individual support can stimulate the development of careers that will strengthen the academic base and economic competitiveness of the United States.

One of the first decisions for young men and women is the choice of a career. For many of them the commitment to a career in the science, mathematics or engineering occurs during their secondary school years. In order to assist students in reaching an informed decision the National Science Foundation proposes to initiate in Fiscal Year 1988 the NFS Young Scholars Program estimated at a level of $3.7M. Approximately 100 two-year projects will be funded to provide enrichment experiences in science, mathematics and engineering for about 1,500 high ability or high potential secondary school students each year. Awards will be for one year with a second year of support contingent on NSF review of project activities and the availability of funds.

The underrepresentation of women, minorities and the disabled at the advanced levels of science, mathematics and engineering deprives the Nation of much potential talent. Consequently the

Foundation strongly encourages the full participation in this program by proposers and students from these groups.

Scope

Young Scholars projects should be designed to enhance participant knowledge of and exposure to science, mathematics and engineering as careers in order to facilitate their making realistic decisions based on the full range of career options available. Specifically, projects should provide participants with enrichment experiences in science and related fields which are not usually available to young students.

Proposed activities should: (1) Enhance participant interest in science disciplines as possible career choices, (2) enable students to assess their potential skills and abilities in scientific disciplines, (3) increase their awareness of the academic preparation necessary for such careers, (4) enhance their understanding of the career planning process and promote their confidence in career selection decisions, and (5) improve their performance in future academic science/mathematics programs.

Project Development

Except where otherwise indicated, the Foundation intends to allow project directors maximum flexibility in designing their projects to address specific discipline areas and target groups. Particular attention should be paid to the following areas in the proposal:

Project Environment

The project should create a learning environment which:

- Reflects the students' interests so that they perceive their participation as worthwhile.
- Challenges the students' intellectual abilities and develops the requisite skills for the use of these abilities.
- Fosters close interaction among the participants and between the participants and science, mathematics, and engineering practitioners, including the project director and staff. The opportunities for interaction should be both formal and informal and the identification of mentors is strongly encouraged.
- Facilitates the development of participants' communication skills as well as their ability to interact with both their peers and adults.

Activities

Proposers should keep in mind that students learn science best by *practicing* science; that is, by exercising their natural curiosity and engaging in scientific discovery. Projects may consist of any combination of activities involving instruction, problem solving, and exposure to the research environment and research methods that are appropriate for the targeted age group and the discipline focus. Activities should be strongly participatory, be intellectually challenging, and promote positive interaction among students and staff. Proposers are encouraged to design innovative methods and approaches, and should strive for balance lecture, laboratory and field experiences.

Young Scholar projects are not intended to provide course work primarily designed to prepare students for advanced placement, or to duplicate regular college courses. Further, college credit for the successful completion of project activities is neither required nor encouraged. Exceptions may be made when the institution involved requires that credit be given. However, grant funds cannot be used to pay per credit fees.

Project Design

Junior/Senior High Focus—Young Scholars projects are targeted at both junior and senior high school students, specifically those entering grades 8–12. Proposers should keep in mind that such students are not at the same point in the career selection process. That is, their knowledge of an exposure to science and related careers differ substantially, partially based on the amount of science and mathematics included in their grade level curriculum. (Exposure is further limited for those students in schools without adequate science teaching personnel or equipment.) Age is another factor which influences student interest and motivation for serious career exploration.

Proposers are expected to design programs which target either junior or senior high level students. However, skill development and skill application, including hand-on activities and exposure to research methods and techniques, are considered important for all students. The Foundation will also consider carefully designed projects with both junior high and senior high components where part of the project involves imaginative interaction between the two.

Project Setting—Residential or commuter projects during the summer are recommended as the principal mechanism for creating an enrichment experience. Project duration can vary from 2–8 weeks. However, projects offering only an after school/weekend academic-year program are also eligible for funding.

Follow-up Activities—An academic-year follow-up for summer programs to sustain the intensity of the experience is also encouraged, especially for younger students. Proposed activities should reinforce and expand the knowledge and skills learned during the summer by helping students utilize these skills in classroom activities. To this end, the follow-up academic-year component need not be limited to summer participants, but may also involve their classmates and teachers. A summer follow-up component may also be appropriate for academic-year programs.

Career Exploration—Since a major objective of this program is to heighten students awareness of science, mathematics and engineering as possible careers, each project must include career exploration activities which offer information and guidance regarding the opportunities and academic requirements of science as a profession. The participation of female, minority and disabled scientists in this activity is especially encouraged.

Philosophy and Ethics of Science—The development of a mature and participating citizen, scientist or not, requires an appreciation of the role of science in society. Therefore, all projects must include some activity that focuses on the philosophy of science and scientific ethics appropriate to the discipline focus of the project. Examples of appropriate topics might be guidelines for the collection and use of scientific data, research ethics or the need for a "Hippocratic oath" for scientists.

Research Methodology—The specific methods and techniques of scientific research differ by field, but the scientific method serves as the basis for the discovery of knowledge across disciplines. Project should include a general discussion of research methodology, with specific attention to the techniques and methods utilized in the disciplines which serve as the focus of the project. Hands-on activities in the laboratory and field could be included where appropriate along with interaction with science practitioners.

Project Outcomes—Proposers must specify project goals and objectives and how they plan to measure the success of the project. Established programs should discuss previous program outcomes.

Participants

The Foundation expects projects to target students entering grades 8–12. (Established program seeking support to augment program activities or expand

participant groups are also eligible if the *majority* of current participants are within this grade range.) Participants should be students of high ability or high potential, with interest in science, mathematics or engineering. The Foundation leases the interpretation of high ability and high potential to the proposer, but encourages consideration of students previously identified as underachievers as well as those with limited prior opportunities to explore science as a career. Particular attention should be given to including women, minorities and disabled students.

The number of project participants will depend on the proposed activities and staff but should allow for maximum interaction among students and between students and staff.

Projects should be designed, where possible, to attract student participants on a regional or national basis, rather than only locally. Although an academic year follow-up component may restrict such a design in many cases, the Foundation will consider creative approaches to overcoming this limitation.

Participants Selection

Proposals must specify how participants will be identified, recruited and selected. Admission decisions regarding participants will be made by the project director on the basis of materials submitted by applicants. This information might include (a) Recommendations from current or recent science or mathematics teachers and counselors, (b) a short essay by the student on why he or she would like to participate or some other appropriate topic and (c) selected background and biographical information. Other selection mechanisms such as examination and interviews can also be considered. The Foundation, in conjunction with an organization contracted to carry out on-going data collection and analysis of program operations, will provide guidance on the format and content of these materials at the time of the award.

The Foundation expects broad-based participation in these programs. For this reason participants should be selected from a variety of secondary schools and excessive representation from any one school is discouraged. As stated earlier, geographic distribution of participants is also an important factor for consideration

Participant Costs

The Foundation intends to allow flexibility in the assessment of participant fees within the limits specified below.

Lack of personal of family financial resources should not be a barrier to program participation by any eligible student. Therefore proposers may request NSF funding for all or a portion of student expenses, including room and board for residential projects, travel and a small stipend (not to exceed $100/week) for students whose participation will preclude needed employment income. However, proposers can require payment for room and board from participants whom they determine are able to assume responsibility for these expenses.

The narrative should detail per student costs for room and board if applicable, travel and any stipends proposed, as well as the percentage of any or all of these costs NSF is being asked to assume. Stipends for participants must be justified in terms of their use in attracting the target population. Proposers who plan to charge room and board fees that will vary among NSF-supported participants should outline how applicant financial need will be determined. Ability to pay may be assessed on an individual or group basis.

Project Staff

Project staffing requirements will depend on the design of the project and the target population. Categories of staff can include active scientists, mathematicians and engineers from industry and academia, precollege science and mathematics teachers, counselors, undergraduate and graduate students, and in projects involving junior high school students, older precollege students. The selection of women, minority and disabled scientists is encouraged. Staffing levels should be adequate to allow for substantive one-on-one interaction between participants and scientists. Proposers are encouraged to solicit volunteers and to utilize part-time as well as full-time staff in order to reduce costs. Skill in teaching and the ability to interact with young students should be a prerequisite for the selection of all staff.

Project Sites

Since a major objective of this program is to acquaint students with the environment and resources of universities, colleges and research organizations, projects normally should be located at these institutions or their field stations.

Eligible Organizations

Proposals may be submitted by any organization that has a scientific or higher education mission and has facilities and staff able to address the goals of this program. These include colleges and universities, non-profit institutions, scientific and professional societies, and for-profit industries with significant research efforts and experience in interacting with students. Academic institutions are encourage to combine efforts with industries with appropriate research facilities.

The Foundation recognizes that there are a number of science enrichment projects for precollege student's currently in operation. We encourage applications from these projects.

Budget

The proposed budget should cover the first year of support. Projects awarded a grant will be informed regarding funding for the second year at an appropriate time. Proposers may request from the Foundation appropriate direct, indirect and participant costs as explained in the forgoing section. The proposal should also include travel costs for one 2-day Project Directors meeting in the Spring in Washington, DC.

The Foundation expects a reasonable degree of cost-sharing in all proposals. Arrangements for cost-sharing should be clearly detailed in the proposal, and will be taken into consideration in decisions on the extent of National Science Foundation support. Fees assessed of participants are not considered cost-sharing.

Proposal Preparation and Submission

A formal proposal should be prepared following the guidelines contained in the NSF document *Grants for Research and Education in Science and Engineering* [GRESE] NSF 83–57, rev.1/87 and the instructions contained in this solicitation. Additional information may be obtained from the NSF *Grants Policy Manual, Revised, NSF 77–47.*

This program is subject to intergovernmental review under the provisions of E.O. 12372 and NSF regulations.

The narrative, which is limited to 15 single-spaced pages (30 double-spaced), should discuss each of the following areas in sufficient detail to allow the proposal to be evaluated in accordance with the goals of this program:

- Project Goals and Objectives
- Disciplinary Focus
- Project Design

—Activities (including schedules and duration)
—Project Setting
—Follow-up Activities
—Career Awareness Activities
—Philosophy and Ethics of Science Activities

—Activities Focused on Research methodology
- Target Population
- Participant Identification, Recruitment & Selection (including procedure and rationale)
- Project Staff
- Project Site (resources and equipment)
- Budget (including cost sharing arrangements and participant costs)
- Project Outcomes

Proposals for Young Scholars Projects Are Due October 1, 1987

Fifteen (15) complete copies of the formal proposal and (3) additional copies of the Cover Sheet and Project Summary should be prepared and sent to: Data Support Section, Room 223, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Evaluation and Selection of Proposals

General criteria used in the evaluation of proposals are described in the NSF GRESE referenced above. The major criteria for the evaluation and selection of Young Scholars projects will be the ability of the proposed activities to achieve program objectives as stated in this solicitation.

Within the context of the Young Scholars Program specific evaluation criteria will include the appropriateness and quality of the following program elements for the target population: (1) Activities focused on scientific ethics, career awareness, the research approach and scientific methods, including hands-on projects and planned interaction between students and scientist and mathematics practitioners; (2) follow-up activities; (3) participant recruitment and selection procedures and demographics, including the representation of women, minorities and the disabled; (4) project design including time frame for implementation, discipline focus and type of project (commuter/residential; summer/academic year); (5) project staff qualifications and mix; (6) project site and resources; (7) budget including total costs, proposed cost sharing and participant costs; and (8) for established programs, the success of current program activities.

Proposals will be reviewed for scientific and educational merit by scientists, mathematicians, engineers, science educators including precollege teachers, and experts in other fields represented by the proposals.

Awards

The announcement of Young Scholars Project awards should be made in February, 1988. Notification of awards is made in writing by the Foundation. As soon as possible thereafter the Foundation will publish and distribute a project directory as a reference guide for potential applicants.

Awards will normally provide for one year of support, with a second year of support contingent upon acceptable progress in implementing program objectives and the availability of funding. Further, the Foundation recognizes that the projected February, 1988 announcement of awards may not provide sufficient lead time for the implementation of Summer, 1988 projects. In such cases the Foundation will consider requests for deferral of project starting dates.

Participants admitted and successfully completing these projects will be identified in NSF records as National Science Foundation Young Scholars. Project Directors may use this terminology in any presentations made in closing ceremonies and any reference to the participants thereafter. The terms "Science", "Mathematics" and "Engineering" may be inserted as appropriate.

Grant Administration

NSF grants are adminstered in accord with the terms and conditions of NSF Form Letter 200, Grant General Conditions, copies of which may be requested from the NSF Forms and Publication Unit.

Inquiries

Questions not addressed in this publication may be directed to the NSF staff by writing to: Division of Research Career Development, Directorate for Science and Engineering Education, National Science Foundation, Room 414, Washington, DC 20550, (202) 357–7536.

Program Assessment Activities

It is critical at the outset of a new program to establish an appropriate data base to facilitate early and regular assessment of program impact. Therefore, prior to the announcement of these awards the Foundation expects to contract with an appropriate organization to assist in the design of program assessment activities, including the design of data collection instruments for project applicants, participants, staffing and operations, and later with the encoding and analysis of these data. The cooperation of project directors will be an important factor in assuring the success of this effort.

The Foundation will issue a separate Request for Proposals for such a contract in Summer 1987, and expects to initiate future competitions at regular intervals. Organizations with or requesting Young Scholars grants are welcome to submit proposals in this separate competition.

A second contract will be let for the publication of a project directory and the coordination of an annual project directors meeting.

Formal proposals should be prepared in accordance with the guidelines contained in the GRESE, pp. 1–8. Single copies of the GRESE (NSF 83–57, rev. 1/87) may be ordered from the: Forms and Publication Unit, Room 232, National Sceince Foundation Washington, DC 20550.

In accordance with Federal statutes and regulations and NSF policies, no person on grounds of race, color, age, sex, national origin, or disability shall be excluded from participation in, denied the benefits of, or be subject to discrimination under any program or activity receiving financial assistance from the National Science Foundation.

NSF has TDD (Telephonic Device for the Deaf) capability which enables individuals with hearing impairment to communicate with the Division of Personnel and Management for information relating to NSF programs, employment or general information. This number is (202) 357–7492.

Catalog of Fedeal Domestic Assistance Number 47.009–Graduate Research Fellowships (Young Scholars Program)

SST Projects

The Foundation is aware that in recent years a number of activities similar to Young Scholars Projects, known as Secondary School Student Science Training Projects (SST), have been offered around the Nation, in almost all cases with local support, frequently supplemented by participant fees. The Foundation strongly encourages the continuation of such programs, expecially where some degree of stable support has been achieved. Eligible SST project directors are invited to participate in this competition to seek additional funds that will strengthen or expand propram activities or broader participation from previously underrepresented groups.

To qualify for supplementary NSF support these projects should address the full range of Young Scholar program objectives, requirements and restrictions as set forth in this announcement. The entire project should be described in the proposal to NSF and will be evaluated

using the established peer review process.

Terence L. Porter,

Director, Division of Research Career Development.

June 29, 1987.

[FR Doc. 87–15150 Filed 7–2–87; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Engineering; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Engineering.

Date and time: July 23 and 24, 1987, 8:30 a.m.–5:00 p.m., July 23, 1987, 8:30 a.m.–3:00 p.m., July 24, 1987.

Place: National Science Foundation, 1800 "G" Street, NW., Room 540, Washington, DC 20550.

Type of meeting: Open.

Contact person: Mrs. Mary Poats, Executive Secretary, Advisory Committee for Engineering, Room 537, National Science Foundation, Washington, DC 20550. Telephone: (202) 357–9571.

Minutes: Mrs. Mary Poats at the above address.

Purpose of meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to Engineering programs and activities.

Agenda: Discussion on issues, opportunities and future directions for the Engineering Directorate: discussion of Engineering Directorate budget situation as well as other items.

M. Rebecca Winkler,

Committee Management Officer.

June 29, 1987.

[FR Doc. 87–15148 Filed 7–2–87; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget (OMB) review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: 10 CFR Part 50, Domestic Licensing of Production and Utilization Facilities.

3. The form number if applicable: Not applicable.

4. How often the collection is required: The information is generally not collected, but is retained by the licensee to be made available to the NRC in the event of an NRC audit.

5. Who will be required or asked to report: Licensees for nuclear power plants.

6. An estimate of the number of respondents: 125

7. An estimate of the total number of hours needed to complete the requirement or request: 11,500 hours/year.

8. An indication of whether section 350(h), Pub.L. 9696–511 applies: Not applicable.

9. Abstract: The proposed rulemaking updates existing references to specific sections of the ASME Boiler and Pressure Vessel Code that set forth the requirements by which nuclear power plant components are constructed and inspected. These requirements provide that plant owners maintain records of certain safety related activities. The records can be used by NRC to audit the performance of these activities. The recordkeeping applies to the owners of nuclear power plants and does not affect the general public.

ADDRESSES: Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Comments and questions should be directed to the OMB reviewer: Vartkes L. Broussalian, (202) 395–3084. NRC Clearance Officer is Brenda Jo Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 25th day of June 1987.

For the Nuclear Regulatory Commission.

William G. McDonald,

Director, Office of Administration and Resources Management.

[FR Doc. 87–15236 Filed 7–2–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–528]

Receipt of Petition for Director's Decision; Arizona Public Service Co., et al.; (Palo Verde Nuclear Generating Station, Unit 1)

Notice is hereby given that Mr. Myron L. Scott, on behalf of the Coalition for Responsible Energy Education, and Mr. Jack Kauffman, on behalf of the Valley of the Sun Gray Panthers, have requested that the Nuclear Regulatory Commission issue an order pursuant to 10 CFR 2.206 to show cause why a Notice of Violation should not be issued and a civil penalty of not less than $100,000 be assessed against the Arizona Public Service Company. The basis for this requested action is an alleged incident on January 20, 1987 at the Palo Verde Nuclear Generating Station, Unit 1, involving an unauthorized disablement of a safety system by a control room supervisor.

This petition is being handled as a request for action pursuant to 10 CFR § 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on the request within a reasonable time. Copies of the petition are available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and in the local public document room for Palo Verde located at the Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Dated at Bethesda, Maryland, this 22nd day of June, 1987.

For The Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 87–15237 Filed 7–2–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–341]

Receipt of Petition for Director's Decision; Detroit Edison Co.; FERMI–2 Nuclear Power Plant

Notice is hereby given that by a Petition dated May 7, 1987, the Government Accountability Project (Petitioner), on behalf of the Safe Energy Coalition of Michigan and the Sisters, Servants of the Immaculate Heart of Mary Congregation, requested that the Commission take certain actions with regard to Detroit Edison Company's (Licensee) "employee concern" program entitled SAFETEAM at Fermi–2 Plant or in the alternative modify, suspend or revoke the facility's operating license. The actions Petitioner has requested the Commission to take with regard to SAFETEAM include: (1) Taking possession of all the SAFETEAM files, reviewing the safety-related allegations, and making these concerns public; (2) requiring that all SAFETEAM allegations be processed by the Licensee in accordance with 10 CFR Part 50, Appendix B; and (3) requiring the Licensee to inform all its employees about the SAFETEAM program before the employees chose to submit

informaiton to the program rather than submitting information to the Commission.

As bases for these requests, the Petitioner asserts (1) that workers who turned over allegations to SAFETEAM were harassed, fired or otherwise discriminated against, (2) that the SAFETEAM was not being properly implemented and was ineffective, (3) that SAFETEAM interviewers are inadequately trained, (4) that deficiencies reported to SAFETEAM are not recorded on non-conformance reports and are not evaluated by the site quality assurance/quality control staff, and (5) that there is no quality check or accountability for the SAFETEAM program.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on the request within a reasonable time. A copy of the Petition is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Local Public Document Room for Fermi–2 Plant at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Bethesda, Maryland, this 29th day of June, 1987.

For The Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 87–15238 Filed 7–2–87; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 81–748]

Application and Opportunity for Hearing: Klearfold, Inc.

June 30, 1987.

Notice is hereby given that Klearfold, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended ("1934 Act"), for an order exempting Applicant from the registration provisions of section 12(g) of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

Notice is hereby given that any interested person not later than July 24, 1987 may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–15260 Filed 7–2–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–24645; File No. SR–OCC–87–13]

Self-Regulatory Organizations; Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(b)(1), notice is hereby given that on June 9, 1987, the Options Clearing Corporation ("OCC") filed the proposed rule change described below. The proposal is designed to provide OCC with the necessary level of margin protection for index options whose settlement value at expiration is calculated based on the opening value of the constituent stocks ("morning contracts"), rather than on the closing value of the index ("evening contracts").[1] The proposal defines morning and evening contracts as separate class groups prior to expiration. The Commission is publishing this notice to solicit comment on the rule change.

OCC states in its filing that the purpose of the proposed rule change is to provide OCC with margin protection for index options during a period when there may be insufficient margin protection. OCC's margin rules had considered morning and evening settlement option contracts for the same type of index options to be in the same class group at all times. OCC rules recognize index option hedges, which reduce OCC margin requirements. On the Friday when index options expire however, morning contracts cease to be perfect hedges for evening contracts. This is because trading for morning contracts ends on Thursday, but trading for evening contracts continues during Friday, so there may be a price disparity between Friday's opening and closing market values.

The proposal "breaks the spread" between morning and evening settlement contracts by treating morning settlement contracts as a separate class group beginning with margin collected on the Thursday prior to expiration. This rule change only applies to index option margin calculations for deposits to be made during and after the second business day prior to the expiration date.

OCC believes tht the proposed rule change is consistent with section 17A of the Act in that it will protect OCC, its Clearing Members, and the public by enhancing OCC's margin protection. The rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

You may submit written comment within 21 days after notice is published in the **Federal Register.** Please file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, with accompanying exhibits, and all written comments, except for material that may be withheld from the public under 5 U.S.C. 552, are available at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–87–13.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: June 26, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–15259 Filed 7–2–87; 8:45 am]

BILLING CODE 8010–01–M

[1] OCC rules enable options exchanges to set index option settlement values at opening or closing index values. *See* Securities Exchange Act Release No. 24277 (March 27, 1987), 52 FR 10838.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

June 29, 1987.

The above named national securities exchanges 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–l thereunder, for unlisted trading privilges in the following securities:

Citicrop
Currency Exchange Warrants (expiring July 1, 1992) (File No. 7–0242)
Emerson Electric Co.
Currency Exchange Warrants (expiring July 1, 1992) (File No. 7–0243)
Ford Motor Credit Company
Currency Exchange Warrants (expiring June 15, 1992) (File No. 7–0244)
General Electric Credit Corporation
Currency Exchange Warrants (expiring June 15, 1992) (File No. 7–0245)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting systems.

Interested persons are invited to submit on or before July 21, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–15190 Filed 7–2–87; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB on June 29, 1987

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on June 29, 1987, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson, or Cordelia Shepherd, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366–4735, or Gray Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the Federal Register, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOE officials listed in the "**FOR FURTHER INFORMATION CONTACT**" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "**FOR FURTHER INFORMATION CONTACT**" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on June 29, 1987.

DOE No: 2921
OMB No: 2120–0007
Administration: Federal Aviation Administration
Title: Flight Engineers and Flight Navigators—FAR–63
Need for Information: To determine applicant eligibility to flight navigator certificates. Also to determine training course acceptability for those schools training flight engineers or flight navigators.
Proposed Use of Information: To assure standardization of training courses for flight engineers and flight navigators and to determine certification eligibility.
Frequency: On occasion
Burden Estimate: 25,416 hours
Respondents: Individuals applying for flight engineer or flight navigator certification
Form(s): FAA Form 8400–3

DOT No: 2923
OMB No: 2120–0025
Administration: Federal Aviation Administration
Title: Crewmember Certificate Application
Need for Information: The information is needed in order to issue special certificates used by international flight crewmembers flying into foreign countries.
Proposed Use of Information: The information is used by the FAA to issue certificates used by international flight crewmembers of U.S. air carriers in lieu of a passport, thus facilitating entry and re-entry into ICAO contracting countries.
Frequency: On Occasion
Burden Estimate: 1,133 hours
Respondents: International Crewmembers
Form(s): FAA Form 8060–6

DOT No: 2924
OMB No: 2120–0044
Administration: Federal Aviation Administration
Title: Rotorcraft External Load Operator Certificate Application—FAR–133
Need for Information: This information is needed for the initial certification as a Rotorcraft External Load Operator, or from currently certified operators adding additional aircraft or equipment.

Proposed Use of Information: The information collected is used to process the operating certificate, as record of aircraft authorized for use, and a monitor Rotorcraft External-Load Operations. It also provides a record of surveillance activities when completed by an inspector.
Frequency: On occasion
Burden Estimate: 3,601 Hours
Respondents: Businesses
Form(s): FAA Form 8710–4

DOT No.: 2925
OMB No.: 2125–0016
Administration: Federal Highway Administration
Title: Driver's Record of Duty Status
Need for Information: To meet the requirements of 49 CFR 395.8
Proposed Use of Information: For FHWA to assure motor carrier compliance and driver compliance with the maximum time limitations required by the Federal Motor Carrier Safety Regulations.
Frequency: Recordkeeping
Burden Estimate: 12,874,171 hours
Respondents: Motor Carriers
Form(s):

DOT No.: 2926
OMB No.: New
Administration: U.S. Coast Guard
Title: Survey of Coast Guard Auxiliary Disenrollees
Need for Information: Collect information to find if the non-emergency towing policy has caused a decline in Coast Guard Auxiliary membership.
Proposed Use of Information: The survey is required to answer questions regarding the decline and to find out the feelings of past members who have withdrawn from the Coast Guard Auxiliary.
Frequency: One-Time
Burden Estimate: 150 hours
Respondents: Coast Guard Auxiliary Disenrollees
Form(s): CG–5464 (O/T)

DOT No.: 2927
OMB No.: 2137–0557
By: Research & Special Programs Administration
Title: Approvals for Hazardous Materials
Need for Information: To ascertain that applicants to become designated approval agencies are qualified and to assure that hazardous materials which pose a special danger to life and property in transportation are being packaged, loaded and transported in a safe manner.
Proposed Use of Information: To verify qualifications of applicants to become approval agencies and to ascertain that materials posing special hazards in transportation channels are safe to transport.
Frequency: On occasion
Burden Estimate: 3,967.42 hours
Respondents: 759
Form(s): None

DOT No.: 2928
OMB No.: 2120–0039
By: Federal Aviation Administration
Title: Air Carrier and Commercial Operators—FAR 135
Need for Information: To show compliance and eligibility for an air carrier operator certificate.
Proposed Use of Information: The information will be used to show compliance and issue air carrier operating certificates.
Frequency: On occasion
Burden Estimate: 200,812 hours
Respondents: Air carriers operating under Part 135
Form(s): FAA Form 8000–6

DOT No.: 2929
OMB No.: 2127–0519
Administration: National Highway Traffic Safety Administration.
Title: 49 CFR 575.104, Uniform Tire Quality Grading Standards
Need for Information: To assist consumers in making informed choices when purchasing motor vehicle tires.
Proposed Use of Information: This regulation requires tire manufacturers to furnish performance information about their tires to the public. The information must be labeled on tire sidewalls, printed on paper labels that are affixed to the tires, and described in brochures.
Frequency: Other—Label each tire
Burden Estimate: 1,099,000 hours
Respondents: 575
Form(s): None

DOT No.: 2930
OMB No.: 2120–0009
Administration: Federal Aviation Administration
Title: Pilot Schools—FAR–141
Need for Information: Needed for the certification process of civilian schools giving instruction in flying.
Proposed Use of Information: The information collected is used for certification and to determine compliance.
Frequency: On occasion
Burden Estimate: 44,717 hours
Respondents: Businesses
Form(s): FAA Form 8420–8

DOT No.: 2931
OMB No.: 2125–0033
Administration: Federal Highway Administration
Title: Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds
Need for Information: For FHWA to obtain information on the usage of material and labor in highway construction.
Proposed Use of Information: For use in studies related to material availability, to provide information to industry and government, and to monitor material and labor usage for highway construction.
Frequency: On occasion
Burden Estimate: 9,660 hours
Respondents: State highway agencies/highway construction contractors
Form(s): FHWA–47

DOT No.: 2932
OMB No.: 2125–0526
Administration: Federal Highway Administration
Title: Motor Carrier Accident Reports
Need for Information: To meet the requirements of 49 CFR 394 for interstate and commercial motor carriers to report accidents involving fatalities, personal injuries, or $4,400 or more in property damage.
Proposed Use of Information: For FHWA to identify accident causes and to support rulemaking.
Frequency: On occasion
Burden Estimate: 36,820 hours
Respondents: Motor Carriers
Form(s): MCS–5OT and MCS–5OB

DOT No.:2933
OMB No.: New
Administration: National Highway Traffic Safety Adm.
Title: Consumer Preferences Regarding Automatic Safety Belt Systems
Need for Information: To measure consumer-preferences of all automatic safety belt designs being offered for model year 1987 cars.
Proposed Use of Information: Congress has directed NHTSA to determine the effects of a new Federal requirement for automatic safety belt systems by measuring new car owner system preferences and their possible influence on new car sales.
Frequency: One time only
Burden Estimate: 480 hours
Respondents: 1,600
Forms: Questionnaires

DOT No.: 2934
OMB No.: 2133–0012
Administration: Maritime Administration
Title: Requirements for Establishing U.S. citizenship (46 CFR 355)
Need for Information: Data is necessary to ascertain citizenship of stockholders/corporations applying for or receiving benefits under the Merchant Marine Act, 1936, as amended.

Proposed Use of Information: To verify citizenship of stockholders/corporations in compliance with statutory requirements.
Frequency: Annually
Burden Estimate: 2,000 hours
Respondents: Ship owners, ship operators, equity owners
Forms: Special Formats

DOT No.: 2935
OMB No.: 2133–0030
Administration: Maritime Administration
Title: Supplementary Training Course Application
Need for Information: To record data on individuals applying for training
Proposed Use of Information: To facilitate the administration, management and relevance of training.
Frequency: On occasion
Burden Estimate: 100 hours
Respondents: Individuals applying for training
Forms: MA–823

DOT No.: 2936
OMB No.: 2115–0056
Administration: U.S. Coast Guard
Title: Various International Agreement Safety Certficates
Need for Information: This recordkeeping requirement is needed as evidence that vessels engaged in international voyages are in compliance with the "International Convention for the Safety of Life At Sea," of 1974.
Proposed Use of Information: The certificates are used as an attestation to the vessel's compliance with the international agreement. Without this requirement, American flag ships could be detained or harassed as being "unsafe."
Frequency: Semiannually or biennially
Burden Estimate: 1,132 hours
Respondents: Owners of U.S. flag ships over 500 gross tons engaged in international voyages
Forms: CG–3347, 3347A, 4359, 4359A, 4761, 967, 968, 969, 969A, Passenger Ship Safety & Nuclear Passenger Ship Safety

DOT No: 2937
OMB No: 2133–0010
Administration: Maritime Administration
Title: U.S. Merchant Marine Academy Application for Admission and Pre-Candidate Questionnaire
Need for Information: To record student's background and qualifications for admission to the U.S. Merchant Marine Academy
Proposed Use of Information: To assess the fitness of applicants
Frequency: Annually
Burden Estimate: 15,000 hours
Respondents: Individuals seeking admission to the Academy
Forms: KP 2–65 and KP 3–4

DOT No: 2938
OMB No: 2133–0508
Administration: Maritime Administration
Title: Claims Against MARAD under the Federal Tort Claims Act
Need for Information: To record nature and extent of claim(s)
Proposed Use of Information: To assess scope and validity of claim(s)
Frequency: On occasion
Burden Estimate: 18 hours
Respondents: Individuals making claims against MARAD
Forms: SF–95

Issued in Washington, DC, on June 29, 1987.

Richard B. Chapman,
Acting Director of Information Resource Management.

[FR Doc. 87–15175 Filed 7–2–87; 8:45 am]
BILLING CODE 4910–62–M

Fitness Determination of NPA, Inc., d/b/a United Express; Order To Show Cause

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination — Order 87–6–63, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find NPA, Inc. d/b/a United Express fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street, SW., Room 6420, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than July 7, 1987.

FOR FURTHER INFORMATION CONTACT:
Ms. Carol A .Woods, Air Carrier Fitness Division (P–56, Room 6420), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2340.

Dated: June 30, 1987.

Matthew V. Scocozza,
Assistant Secretary for Policy and International Affairs.

[FR Doc. 87–15278 Filed 7–2–87; 8:45am]
BILLING CODE 4910–62–M

Federal Aviation Administration

Flight Service Station at Minneapolis/St. Paul International Airport, Minneapolis, MN; Notice of Closing

Notice is hereby given that on or about June 30, 1987, the present Flight Service Station at Minneapolis, Minnesota will be closed. Services to the general public of the Minneapolis, Minnesota Flight Plan Area, formerly provided by this office, will be provided by the New Automated Flight Service Station in Princeton, Minnesota. This information will be reflected in the FAA organization statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Des Plaines, Illinois, on June 25, 1987.

William H. Pollard,
Director, Great Lakes Region.

[FR Doc. 87–15126 Filed 7–2–87; 8:45 am]
BILLING CODE 4910–13–M

Cargo Pallets, Nets, and Containers; Availability of Technical Standard Order

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of technical standard order (TSO) and request for comments.

SUMMARY: The proposed TSO–C90b prescribes the minimum performance standards that cargo pallets, nets, and containers must meet to be identified with the marking "TSO–C90b."

DATE: Comments must identify the TSO file number and be received on or before October 16, 1987.

ADDRESS:

Send all comments on the proposed technical standard order to: Technical Analysis Branch, AWS–120, Aircraft Engineering Division, Office of Airworthiness—File No. TSO–C90b, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591
Or Deliver Comments To: Federal Aviation Administration, Room 335, 800 Independence Avenue, SW., Washington, DC 20591

FOR FURTHER INFORMATION CONTACT:
Ms. Bobbie J. Smith, Technical Analysis Branch, AWS–120, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800

Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–9546

Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. All communications received on or before the closing date for comments specified above will be considered by the Director of Airworthiness before issuing the final TSO.

Background

TSO–C90a, Cargo Pallets, Nets and Containers incorporates by reference the Aerospace Industries Association of America, Inc. (AIA) National Aerospace Standard, NAS–3610, Revision 6 dated April 30, 1977, entitled "Cargo Unit Load Devices Specifications For." Purpose of this revision is to incorporate revision 8, dated February 19, 1987, to incorporate changes requested by the International Air Transport Association. The proposed TSO–C90b reflects this revision which includes statements for clarification, addition of loading and restraint conditions and other corrections. The proposed changes are considered very minor and technically insignificant.

How To Obtain Copies

A copy of the proposed TSO–C90b may be obtained by contacting the person under "For Further Information Contact." TSO–C90b references AIA NAS 3610, dated August 1, 1983, for the minimum performance standards. AIA NAS 3610 may be purchased from the Aerospace Industries Association of America, Inc., 1725 DeSales Street, NW., Washington, DC 20036.

Issued in Washington, DC, on June 26, 1987.

Thomas E. McSweeny,

Manager, Aircraft Engineering Division, Office of Airworthiness.

[FR Doc. 87–15121 Filed 7–2–87; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

[BS–AP–No. 2647]

Public Hearing; Consolidated Rail Corp.

The Consolidated Rail Corporation has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance of the manual interlocking at Mingo Junction, Ohio. This proceeding is identified as FRA Block Signal Application No. 2647.

After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on August 13, 1987, in Room 301 of the County Court House at 301 Market Street in Steubenville, Ohio.

The hearing will be an informal one, and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC, on June 26, 1987.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 87–15166 Filed 7–2–87; 8:45 am]

BILING CODE 4910–06–M

[Q–86–1]

Petition; Norfolk and Western Railway Co.

The Norfolk and Western Railway Company has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed construction of an employee sleeping quarters facility within one-half mile of trackage which is utilized on an occasional basis for switching operations at Bluefield, West Virginia. This proceeding is identified as FRA General Docket No. Q–86–1.

The site chosen for the new lodging facility is located at the intersection of Raleigh and Scott Streets in Bluefield. Final construction plans for the lodging facility are not available at this time. Present construction proposals indicate that the facility will be a two or three story structure of masonry block construction containing 85–90 rooms. At full capacity 85–90 employees will occupy the facility. Each employee will be housed in an individual room.

Interested persons are invited to participate in this proceeding by submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications concerning this proceeding should identify the appropriate Docket No. Q–86–1, and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590.

Communications received before August 18, 1987 will be considered by FRA before final action is taken. Comments received after that will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours (9 a.m.–5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC, on June 26, 1987.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 87–15165 Filed 7–2–87; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1954, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott [within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954]. The list is the same as the prior quarterly list published in the Federal Register.

On the basis of the best information currently available to the Department of the Treasury, the following countries

may require participation in, or cooperation with, an international boycott [within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954].

Bahrain
Iraq
Jordan
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Arab Republic
Yemen, Peoples Democratic Republic of

Dated: June 29, 1987

J. Roger Mentz,

Assistant Secretary for Tax Policy.

[FR Doc. 87-15158 Filed 7-2-87; 8:45 am]

BILLING CODE 4810-25-M

Certification of Exchange of Information Programs of Treaty Partners for Purposes of the Foreign Sales Corporation; Legislation

AGENCY: Department of the Treasury.

ACTION: Correction of notice.

SUMMARY: This document contains corrections to the notice of certification of exchange of information programs of certain U.S. treaty partners for purposes of the Foreign Sales Corporation legislation. The notice was published in the **Federal Register** on Thursday, June 11, 1987 (52 FR 22412).

FOR FURTHER INFORMATION CONTACT: Jacob Feldman, Office of Associate Chief Counsel (International), Internal Revenue Service, 202-566-3289 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On November 6, 1984, the Treasury Department issued a notice listing the income tax treaty partners that were certified for purposes of section 927 (e)(3)(B) of the Internal Revenue Code. On June 11, 1987, the Treasury Department published a notice (52 FR 22412) that supplemented the list of treaty partners that has been published on November 6, 1984.

Need For Correction

As published, the June 11, 1987, notice inadvertently omitted the names of three countries that were on the November 6, 1984, list, and failed to reflect an editorial correction in the text of one of the paragraphs.

Corrections of Publication

Accordingly, the publication of the notice which was the subject of FR. Doc. 87-13329 is corrected as follows:

Paragraph 1. On page 22412, second column, at the end of the first full paragraph, the language "carries out the purposes of the exchange of information requirements of the FSC legislation." is removed and the language "is satisfactory in practice." is added in its place.

Par. 2. On the same page 22412, second column, in the listing of the countries that is part of the third sentence of the second full paragraph, the countries "Austria", "Belgium, and "Netherlands" are added in the correct alphabetical locations.

Stephen E. Shay,

International Tax Counsel.

[FR Doc. 87-15227 Filed 7-2-87; 8:45 am]

BILLING CODE 4810-25-M

[General Counsel Designation Docket No. 146]

Appointment of Members of the Legal Division to the Performance Review Board

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 301 and 26 U.S.C. 7801, Treasury Department Order No. 101-5 (Revised), and pursuant to the Civil Service Reform Act, I hereby appoint the following persons to the Legal Division Performance Review Board:

(1) For the General Panel—
- D. Edward Wilson, Jr., Deputy General Counsel, who shall serve as Chairperson;
- Judith A. Denny, Counselor to the General Counsel;
- Selig S. Merber, Assistant General Counsel (Enforcement);
- Mary Ann Gadziala, Assistant General Counsel (Banking and Finance);
- Richard V. Fitzgerald, Chief Counsel, Office of the Comptroller of the Currency;
- Marvin J. Dessler, Chief Counsel, Bureau of Alcohol, Tobacco, and Firearms; and
- Michael T. Schmitz, Chief Counsel, United States Customs Service.

(2) For the Internal Revenue Service Panel—
- Chairperson, Deputy Chief Counsel (Policy and Legal Programs), IRS;
- Deputy General Counsel;
- Deputy Chief Counsel (Management and Operations), IRS;
- A rotating Regional Counsel, IRS; and
- A rotating Division Director, IRS.

I hereby delegated to the Chief Counsel of the Internal Revenue Service the authority to make the appointments to the IRS Panel specified in the Designation and to make the publication of the IRS Panel as required by 5 U.S.C. 4314(c)(4).

Dated: June 23, 1987.

Robert M. Kimmitt,

General Counsel.

[FR Doc. 87-15229 Filed 7-2-87; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

Tax Counseling for the Elderly; Availability of Application Packages

AGENCY: Internal Revenue Service, Treasury.

ACTION: Availability of application packages.

SUMMARY: This document provides notice of the availability of Application Packages for the 1988 Tax Counseling for the Elderly program.

DATES: Application packages are available from IRS at the time. The deadline for submitting an application package to the IRS for the 1988 Tax Counseling for the Elderly program is August 7, 1987.

ADDRESS: Application Packages may be requested by contacting: Internal Revenue Service, Tax Counseling for the Elderly Program, Taxpayer Service Division D:R:T:I, Room 7215, 1111 Constitution Ave., NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Marion Butler of the Taxpayer Service Division, Internal Revenue Service, 1111 Constitution Ave. NW., Room 7215, Washington, DC. 20224, (202) 566-4904, not a toll-free call

SUPPLEMENTARY INFORMATION: Authority for the Tax Counseling for the Elderly program is contained in section 163 of the Revenue Act of 1978 (92 Stat. 2810). Regulations were published in the **Federal Register** at 44 FR 72113 on December 13, 1979. Section 163 gives the Internal Revenue Service authority to enter into cooperative agreements with private or public non-profit agencies or organizations to establish a network of trained volunteers to provide free tax information and return preparation assistance to elderly individuals. Elderly individuals are defined as individuals age 60 and over at the close of their taxable year.

Cooperative agreements will be entered into based upon competition among eligible agencies and

organizations. Applications are being solicited before the FY 1988 budget has been approved and, therefore, cooperative agreements will be entered into subject to funds being appropriated. Subject to funding, volunteers may receive reimbursement for expenses incurred in training and in providing tax return assistance, and sponsoring agencies and organizations may receive reimbursement for administrative expenses. The Tax Counseling for the Elderly program is referenced in the Catalog of Federal Domestic Assistance in Section 21.008.

Philip P. Russo,

Assistant Director, Taxpayer Service Division.

[FR Doc. 87-15309 Filed 7-2-87; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 128
Monday, July 6, 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).

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Wednesday, July 8, 1987, 10:00 a.m.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Kerosene Heaters: 1986 Report.

The staff will brief the Commission concerning the project on kerosene heaters flammability.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard, Ave., Bethesda, Md. 20207 301–492–6800.

Dated: June 1, 1987.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 87–15327 Filed 7–1–87; 12:15 pm]

BILLING CODE 6355–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:05 a.m. on Monday, June 29, 1987, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider matters relating to the possible failure of certain insured banks: Names and location of banks authorized to be exempt from disclosure pursuant to subsections (c)(8), (c)(9)(AA)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

At that same meeting, the Board also considered a recommendation regarding the Corporation's assistance agreement with an insured bank.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, the Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: June 29, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–15314 Filed 7–1–87; 8:45 am]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, July 7, 1987, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to merge:

Union Warren Savings Bank, Boston, Massachusetts, an insured stock savings bank, for consent to merge with Home Owners Federal Savings and Loan Association, Boston, Massachusetts, a non-FDIC-insured institution, under the charter and title of Home Owners Federal Savings and Loan Association.

Notice of acquisition of control:

Abington Savings Bank, Abington, Massachusetts.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,049 Sale of Mortgage Loans.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requets, or actions involving admninistrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Amendment to the Corporation's Guidelines for Implementing a Policy of Capital Forbearance which amendment would (1) extend (a) the deadline for admittance into the Corporation's capital forbearance program to December 31, 1989 and (b) the program's termination date to January 1, 1995; (2) make the guidelines applicable to all banks that can demonstrate that the bank's difficulties are primarily attributed to economic conditions beyond the control of the bank's management; and (3) eliminate the fixed capital ratio guidelines.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: June 30, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–15315 Filed 7–1–87; 12:16 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, July 7, 1987, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed

session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for Federal deposit insurance:

Mercantile Bank of Delaware, a proposed new bank to be located at 32 Read's Way, New Castle, Delaware.

Application for Federal deposit insurance and for consent to exercise full trust powers:

Manufacturers Hanover Trust Company of California, an operating noninsured trust company located at 50 California Street, San Francisco, California.

Request for relief from reimbursement under the Truth in Lending Simplification and Reform Act:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

Request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: June 30, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87–15316 Filed 7–1–87; 12:16 pm]

BILLING CODE 6714–01–M

5

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10:30 a.m., Thursday, July 9, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 1, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–15348 Filed 7–1–87; 3:46 pm]

BILLING CODE 6210–01–M

6

FEDERAL TRADE COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 52 FR, June.29, 1987, Page No. 24241.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Tuesday, July 7, 1987.

CHANGES IN THE AGENDA: The Federal Trade Commission has added an item to the agenda of its previously announced open meeting of July 7, 1987: Consideration of the implications of the proposed reduction in FTC appropriations by House Appropriations Subcommittee.

Emily H. Rock,

Secretary.

[FR Doc. 87–15348 Filed 7–1–87; 3:46 pm]

BILLING CODE 6750–01–M

federal register

Monday
July 6, 1987

Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Part 173

Hazardous Materials; Uranium Hexafluoride; Revision to the Final Rule and Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-166V; Amdt. No. 173-198]

Hazardous Materials; Uranium Hexafluoride

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Revision to the final rule.

SUMMARY: This document revises the final rule published on November 18, 1986 (Amendment No. 173-198, 51 FR 41631) and revised December 24, 1986 (51 FR 46674) concerning design criteria for certain types of packagings used for the transport of uranium hexafluoride (UF_6). Packagings manufactured after June 30, 1987 must meet specifications of the American National Standard N14.1-1982 or DOT Class 106A (49 CFR 179.300) for multi-unit tank car tanks. Design standards for other types of UF_6 packagings are considered under a notice of proposed rulemaking (NPRM) elsewhere in this issue of the **Federal Register**. This action is in response to petitions for reconsideration which have been received by RSPA. Issues applying to other types of UF_6 packagings currently in use are to be resolved under the NPRM.

Under 5 U.S.C. 553, agencies are permitted to publish a rule less than 30 days before its effective date in the rule relieves a restriction or if the agency finds good cause for not providing at least 30 days between publication and effective date. This final rule relieves a restriction. Also, RSPA finds good cause to issue this rule with less than 30 days between publication and effective date in order to avoid a potential disruption in defense and civilian nuclear activities that would be caused by implementation on June 30, 1987 of the packaging standards previously promulgated under Docket No. HN-166V for UF_6 shipments.

EFFECTIVE DATE: June 30, 1987.

FOR FURTHER INFORMATION CONTACT: Michael E. Wangler, Chief, Radioactive Materials Branch, Technical Division, Office of Hazardous Materials Transportation, 400 Seventh St. SW., Washington DC 20590, (202) 366-4545

SUPPLEMENTARY INFORMATION:

Background

Previous rulemaking actions under Docket HM-166V have addressed the need for regulations for the packaging, handling and transporting of packages containing uranium hexafluoride (UF_6). Amendments Nos. 172-107 and 173-198 were published in the **Federal Register** (51 FR 41631) on November 18, 1986. That final rule adopted standards requiring that, after December 31, 1986, packagings used for UF_6 transport be designed, fabricated, inspected, tested, and marked in accordance with ANSI N14.1-1982.

In response to the final rule, RSPA received five petitions for reconsideration. The petitioners requested reconsideration of the application of the packaging standards and an extension of the effective date of the final rule. The basis of their petitions was that compliance with the packaging design requirements was not practicable, because the majority of existing packagings for UF_6 were manufactured before the publication of ANSI N14.1-82, and do not conform to that standard. Petitioners also contended that there was not sufficient time for affected shippers to obtain packagings which do conform to the packaging design requirements, or to obtain exemptions to continue to use existing packagings. As a result, shipments of UF_6 would be disrupted, leading to substantial economic losses and disruption of defense and civilian nuclear activities.

In response to these petitions for reconsideration, RSPA published a revision to Amendment 173-198 in the **Federal Register** (51 FR 46674) on December 24, 1986. The revision extended the effective date for complying with the packaging design requirements from January 1, 1987 to July 1, 1987 and amended those requirements to permit continued use of packagings manufactured in accordance with previous editions of ANSI N14.1 These actions were intended as interim measures pending RSPA's evaluation of the extent of the problem and potential remedies.

The revision to the final rule announced a public meeting (held on March 2, 1987 in Washington, DC) and requested additional comments concerning appropriate packaging design standards for UF_6. To facilitate RSPA revaluation of the design requirements for UF_6 packagings, the public was invited to submit information regarding (1) the effects of the requirement that all packagings be designed and fabricated in accordance with ANSI standards, including the technical and economic impacts of implementing the requirement; (2) the effects of permitting continued use of existing packagings that do not conform to ANSI standards (grandfathering) and any restrictions or conditions that should be placed on their continued use; (3) all of the standards to which existing packagings have been manufactured; and (4) any other relevant information regarding design and fabrication of non-ANSI packagings. In response to the request for comments, RSPA received written comments from five individuals. Additionally, approximately 35 individuals attended the public meeting. Comments are discussed in detail in the NPRM which appears elsewhere in this issue of the **Federal Register**.

Joint NPRM and Final Rule

Based on evaluation of the problem and comments submitted to the docket, RSPA agrees with the petitioners that relief from Amendment 173-198 as adopted on December 24, 1986 is needed. Without further rulemaking action, after June 30, 1987 only packagings manufactured in conformance to ANSI N14.1-82 or a previous edition would be authorized for continued use as packagings for UF_6 and only those which conform to ANSI N14.1-82 would be authorized for new construction. RSPA agrees that the industry has an excellent record of safety in transporting UF_6. Although accidents have been reported, no releases of UF_6 are known to have occurred. However, RSPA believes that certain safety control measures and packaging standards are essential to address chemical hazards of UF_6, and that it should not delay implementation of new packaging standards.

RSPA has decided upon a two-pronged approach to the problem, addressing the new manufacture of packagings in this final rule and addressing existing packagings in the NPRM. In order to address safety issues concerning new manufacture, RSPA is revising Amendment 173-198 in this final rule. The revised rule amends § 173.420(a)(2) to require that packagings manufactured after June 30, 1987 conform to either ANSI N14.1-82 or the specification for DOT Class 106A multi-unit tank car tanks. This action reflects RSPA's belief that both of these categories of packagings provide a high level of safety and are essentially non-controversial. Inclusion of the specification for DOT Class 106A multi-unit tank car tanks corrects an error of omission on RSPA's part.

The final rule does not impose design requirements on any packaging for UF_6 manufactured on or before June 30, 1987, and provides for their continued use until further rulemaking action is taken. RSPA has decided to make the requirements for new packagings effective immediately because we believe that all new packagings are

being constructed either in accordance with the ANSI standard or with the DOT specification for Class 106A multi-unit tank car tanks. Interested readers are referred to the NPRM which appears elsewhere in this issue of the **Federal Register** for discussion of RSPA's proposals concerning continued use of UF_6 packagings other than those conforming to either ANSI N14.1–82 or DOT Class 106A.

Administrative Notices

The RSPA has determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (40 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket. Based on limited information concerning the size and nature of entities likely affected, I certify that this regulation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Part 173

Hazardous materials transportation, Packaging, Radioactive materials.

In consideration of the foregoing, 49 CFR 173 is amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for Part 173 is revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

2. In § 173.420, paragraph (a)(2) is revised to read as follows:

§ 173.420 Uranium hexafluoride (fissile and low specific activity).

(a) * * *

(2) Packagings used for the transportation of uranium hexafluoride on or before June 30, 1987 are authorized for continued use until further notice. Packagings manufactured after June 30, 1987 shall be designed, fabricated, and marked in accordance with—

(i) American National Standard N14.1–1982; or

(ii) Specifications for DOT Class 106A multi-unit tank car tanks (§§ 179.300, 179.301, and 179.302 of this subchapter).

* * * * *

Issued in Washington DC on June 30, 1987 under authority delegated in 49 CFR Part 1.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 87–15276 Filed 7–1–87; 9:53 am]

BILLING CODE 4910-60-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-166V; Notice No. 87-7]

Hazardous Materials; Uranium Hexafluoride

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: RSPA is proposing an amendment to the Hazardous Materials Regulations (HMR) to permit the transport of uranium hexafluoride (UF_6) in packagings that do not meet the requirements of either American National Standard N14.1–1982 (ANSI N14.1–1982) or the specification for DOT Class 106A multi-unit tank car tanks. RSPA believes that this action is necessary to permit the continued use of UF_6 packagings that have previously been used safely.

DATE: Comments must be received on or before August 5, 1987.

ADDRESS: Address comments to Dockets Unit, Office of Hazardous Materials Transportation, U.S. Department of Transportation, Washington, DC, 20590. Comments should identify the docket and notice and be submitted, if possible, in 5 copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Unit is located in Room 8426 of the Nassif Building, 400 Seventh St., SW., Washington, DC, 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Michael E. Wangler, Chief, Radioactive Materials Branch, Technical Division, Office of Hazardous Materials Transportation, 400 Seventh St., SW., Washington, DC, 20590, (202) 366–4545.

SUPPLEMENTARY INFORMATION:

Background

On April 11, 1986, RSPA published a notice of proposed rulemaking (NPRM; Notice 86–2) in the **Federal Register** (51 FR 12529) which proposed certain safety control measures concerning the packaging and transportation of uranium hexafluoride (UF_6), including both fissile and low specific activity UF_6. One of the proposed requirements was that packagings for UF_6 be designed, fabricated, inspected and tested in accordance with American National Standard N14.1–1982 (ANSI N14.1–82). Based on evaluation of the comments received from eight commenters in response to the NPRM, RSPA published a final rule (Amendments 172–107 and 173–198) in the **Federal Register** (51 FR 41631) on November 18, 1986, which adopted the package design standards essentially as proposed, except that packagings were also required to be marked in accordance with ANSI N14.1–82. The final rule specified an effective date of January 1, 1987. Interested readers are referred to the NPRM and final rule for additional background discussion.

Following publication of the final rule, RSPA received five petitions for reconsideration. The petitioners requested reconsideration of the application of packaging design standards and extension of the effective date of the final rule. The basis for these requests was that compliance with the packaging design requirements was not practicable because the majority of existing packagings for UF_6 were manufactured before the publication of ANSI N14.1–82 and do not conform to that standard. Petitioners also contended that there was not sufficient time provided by RSPA for affected shippers to obtain packagings which do conform to the packaging design requirements or to apply for and obtain exemptions to continue to use existing packagings. As a result, shipments of UF_6 would be disrupted, leading to substantial economic losses and disruption of defense and civilian nuclear activities.

In response to these petitions for reconsideration, RSPA published a revision to Amendment 173–198 in the **Federal Register** (51 FR 46674) on December 24, 1986. The revision extended the effective date for complying with the packaging design requirements from January 1, 1987 to July 1, 1987 and amended those requirements to permit continued use of packagings manufactured in accordance with previous editions of ANSI N14.1. These actions were intended as interim measures pending RSPA's evaluation of the extent of the problem and potential remedies. The revision to the final rule also announced a public meeting (held on March 2, 1987 in Washington, DC) and requested additional comments concerning appropriate packaging design standards for UF_6. To facilitate RSPA revaluation of the design requirements for UF_6 packagings, the public was invited to submit information regarding (1) the effects of the requirement that all packagings be designed and fabricated in accordance with ANSI standards, including the technical and economic impacts of implementing the requirement; (2) the effect of permitting continued use of existing packagings that do not conform to ANSI standards (grandfathering) and any restrictions or conditions that should be placed on their continued use; (3) all of the standards to which existing packagings have been manufactured; and (4) any other relevant information regarding design and fabrication of non-ANSI packagings. Interested persons are referred to the December 24, 1986 final rule for additional background discussion concerning the petitions for reconsideration.

In response to the request for comments, RSPA received written comments from five individuals. Additionally, approximately 35 individuals attended the public meeting. Comments are summarized in the following paragraphs.

The Effects of the Requirement That All Packagings be Designed and Fabricated in Accordance With ANSI Standards, Including the Technical and Economic Impacts of Implementing the Requirement

Generally, the commenters indicated that most packagings currently in use were not manufactured in accordance with any edition of ANSI N14.1 and, therefore, could not be continued in use after June 30, 1987 under the final rule published December 24, 1986. Of the approximately 53,000 existing packagings for UF_6, only about 1,500 have been manufactured in accordance with an edition of ANSI N14.1. The remaining packagings would have to be removed from service unless exemptions or other regulatory relief permitting their continued use were obtained. Commenters further noted that the time period between publication on December 24, 1986 of the revision to the final rule and the July 1, 1987 implementation date did not provide enough time either to apply for and obtain exemptions for continued use of existing packagings or to obtain acceptable replacement packaging. One commenter proposed that implementation of the regulations be postponed for two years so as to provide sufficient time to comply with the new requirements.

The commenters further advised that because of their inability to use existing packagings or obtain new ones, their companies would suffer financially through increased costs and lost business. They estimated that the replacement cost of the older packagings will be about $3,000 per packaging. This figure includes expenses for the disposal of the old packaging and the purchase of a new one. Commenters further stated

that if all currently-used packagings, other than those manufactured in accordance with ANSI N14.1, were prohibited UF_6 packaging manufacturers could not meet the immediate demand for production of new packagings. As a result, companies would be unable to meet contractural commitments, thereby reducing their income and possible causing layoffs of company personnel. The Department of Energy (DOE) emphasized in its comments that national defense programs could be seriously affected if depleted UF_6 could not be moved to defense installations due to shortages of authorized packagings.

The Effect of Permitting Continued Use of Existing Cylinders That Do Not Conform to ANSI Standards (Grandfathering) and Any Restrictions or Conditions That Should Be Placed on Their Continued Use

Commenters stated that the level of safety associated with continued use of existing packagings that do not conform to ANSI N14.1 is no less than that for packagings that conform to ANSI N14.1. None of the commenters suggested additional restrictions or conditions for continued use of packagings that do not conform to ANSI N14.1. Commenters contended that these packagings must meet the general requirements for DOT Specification 7A as Type A packagings for radioactive materials. Commenters noted that safety problems that have been observed have occurred during in-plant handling of the packagings and not during transportation. They pointed out that ANSI, in the foreword to ANSI N14.1–1982, had acknowledged that older packagings will maintain a comparable level of safety when they are used within their original design limitations.

All of the Standards to Which Existing Cylinders Have Been Manufactured

Commenters indicated that most existing packagings which do not conform to ANSI N14.1 were manufactured to two sets of standards. One class of packagings, designated as model 30A cylinders, conforms to DOT Class 106A specifications for multi-unit tank car tanks. The specifications for multi-unit tank car tanks are found in 49 CFR 179.300. Other packagings have been manufactured in accordance with standards specified in Division VIII, Section I of the American Society of Mechanical Engineers (ASME) Code (various editions). According to commenters, all but a few thousand packagings are included in these two categories. It was pointed out that, although many packagings have been manufactured in accordance with standards for UF_6 packagings found in an Oak Ridge National Laboratory Document ORO-651, all of these packagings are included in one of the two categories discussed above.

Any Other Relevant Information Regarding Design and Fabrication of Non-ANSI Packagings

In addition to the comments discussed above, commenters stated that some packagings have been issued certificates of acceptability by U.S. Governmental agencies. For example, the U.S. Nuclear Regulatory Commission has reviewed a number of the packagings used for UF_6 transport that were not manufactured in accordance with an ANSI standard, and has issued certificates of compliance for domestic use of the packagings. Similarly, RSPA has issued certificates of competent authority for some packagings to be used for international transport. Commenters emphasized that since these certified packagings had already been reviewed by regulatory authorities, their continued use in commerce should be allowed. RSPA has determined that these packagings are included within the two categories of packagings discussed in the previous paragraph.

Joint NPRM and Final Rule

Based on evaluation of the problem and comments submitted to the docket, RSPA agrees with the petitioners that relief from Amendment 173–198 as adopted on December 24, 1986 is needed. Without further rulemaking action, after June 30, 1987 only packagings manufactured in conformance to ANSI N14.1–82 or a previous edition would be authorized for continued use as packagings for UF_6 and only those which conform to ANSI N14.1–82 would be authorized for new construction.

RSPA has decided upon a two-pronged approach to the problem, addressing the new manufacture of packagings in a final rule and addressing existing packagings in this NPRM. The final rule provides for the continued use of any packaging for UF_6 manufactured on or before June 30, 1987 until further rulemaking action is taken. Interested readers are referred to the final rule which appears elsewhere in this issue of the **Federal Register.**

To accommodate continued use of UF_6 packagings other than those conforming to either ANSI N14.1–82 or DOT Class 106A, RSPA proposes in this document to amend § 173.420(a)(2) to selectively permit continued use of two categories of these packagings. First, RSPA proposes to allow the use of packagings manufactured in accordance with an edition of ANSI N14.1 issued prior to 1982 provided that the standard was in effect at the time the packagings were manufactured. This proposal clarifies the intent of the current requirement, which places no condition on the effective date of the ANSI N14.1 standard used for the manufacture of UF_6 packagings. Second, RSPA proposes to allow continued use of packagings if they have been manufactured and stamped in accordance with Section VIII, Division 1 of the ASME Code that was affective at the time of manufacture. These packagings will be required to be used within their original design limitations. Additionally, the proposal specifies minimum acceptable wall thicknesses for continued use of packagings manufactured in conformance to the ASME Code. Minimum wall thicknesses have been stipulated so that packagings, which may not meet pressure service requirements, will not be used. These thicknesses are consistent with the specifications for DOT Class 106A, ANSI N14.1–1982, and the proposed ANSI N14.1–1987. Finally, to ensure their integrity, these packagings would be subject to the periodic inspection, test, and marking requirements of § 173.420(b).

RSPA is not proposing to permit the continued use of all existing packagings for UF_6. RSPA believes that controls on the manufacture of the packagings are necessary to ensure an acceptable level of safety. This proposed regulation will ensure that packagings have been manufactured in accordance with an acceptable standard. Categories of packagings or individual packagings rendered obsolete could potentially be used upon issuance of an exemption or other regulatory relief by RSPA, based on demonstration by the applicant of a level of safety at least equivalent to that provided by the regulations. Interested readers are invited to comment on these proposals.

Administrative Notices

The RSPA had determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (40 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket. Based on limited information concerning the size and nature of

entities likely affected, I certify that this regulation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Part 173

Hazardous materials transportation, Packaging, Radioactive materials.

In consideration of the foregoing, 49 CFR 173 would be amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for Part 173 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

2. In § 173.420, paragraph (a)(2) would be revised to read as follows:

§ 173.420 Uranium hexafluoride (fissile and low specific activity).

(a) * * *

(2) Packagings shall be designed, fabricated, and marked in accordance with—

(i) American National Standard N14.1–1982;

(ii) An edition of American National Standard N14.1 issued prior to 1982 provided the standard was in effect at the time the packaging was manufactured;

(iii) Specifications for class DOT 106A multi-unit tank car tanks (§ 179.300, § 179.301, and § 179.302 of this subchapter); or

(iv) Section VIII, Division I of the ASME Code, provided the packaging—

(A) Was manufactured on or before June 30, 1987;

(B) Conforms to the edition of the ASME Code in effect at the time the packaging was manufactured;

(C) Is used within its original design limitations; and

(D) Has wall (shell and head) thicknesses that have not decreased below the minimum value specified in the following table:

Packaging model	Minimum thickness millimeters (inches)
1S, 2S	1.58 (0.062)
5A, 8A	3.17 (0.125)
12A, 12B	4.76 (0.187)
30B	7.93 (0.312)
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* * * * *

Issued in Washington, DC on June 30, 1987 under authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 87–15277 Filed 7–1–87; 9:54 am]

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Monday, July 6, 1987

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H.R. 191/Pub. L. 100–63

To authorize the establishment of a Peace Garden on a site to be selected by the Secretary of the Interior (June 30, 1987; 101 Stat. 379; 2 pages) Price: $1.00

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[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

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[4] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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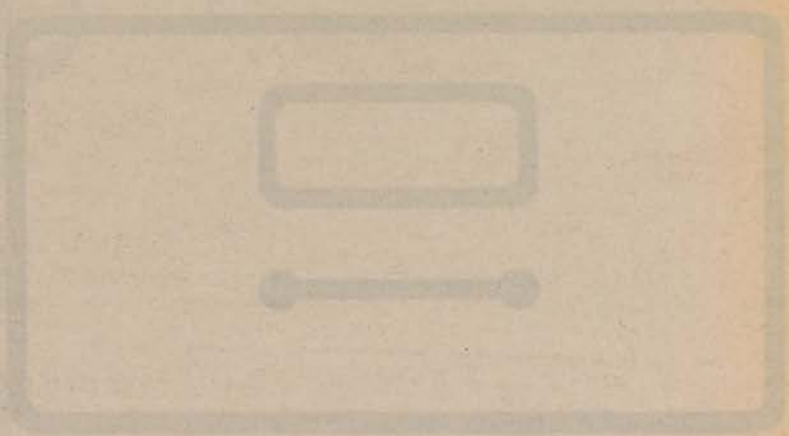

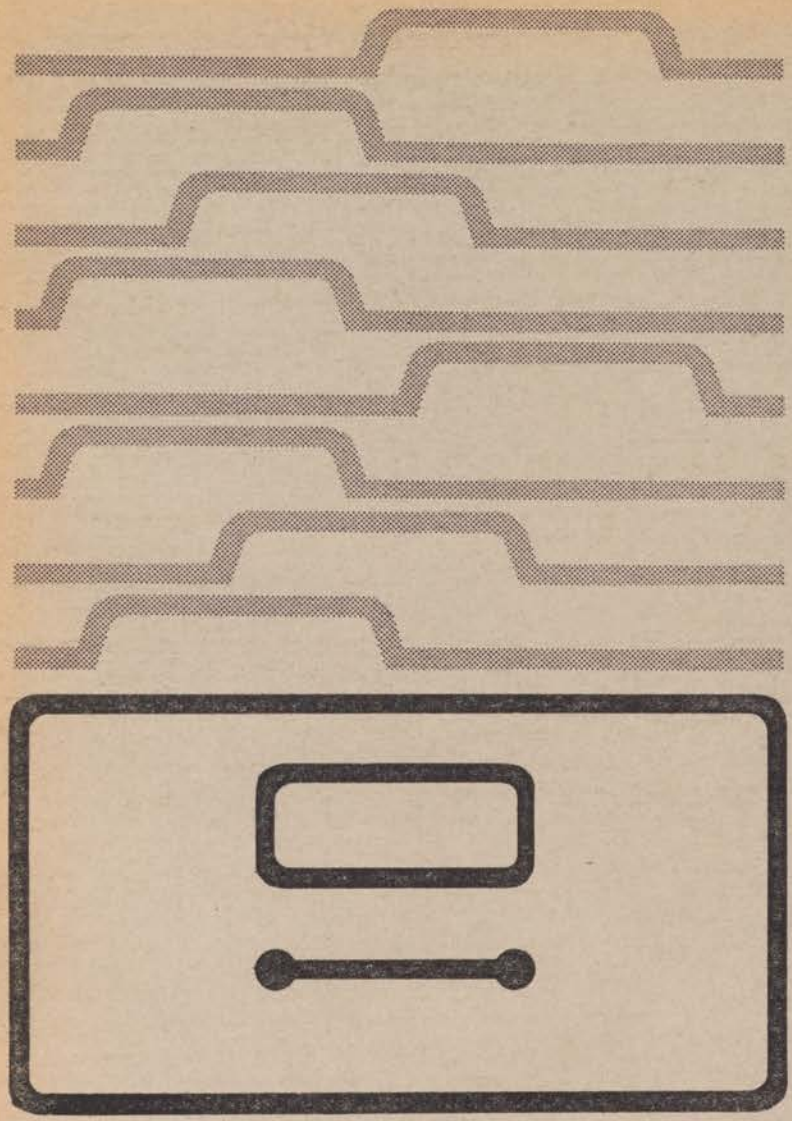

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