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Wednesday
August 12, 1987

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

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: September 29, at 9 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Janice Booker, 202-523-5239

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Presidential Documents

Title 3—

The President

Proclamation 5691 of August 10, 1987

National Civil Rights Day, 1987

By the President of the United States of America

A Proclamation

As he journeyed to Washington, D.C., to assume the Presidency in 1861, Abraham Lincoln captured the essence of the American dream in a speech at Philadelphia's Independence Hall, the site where our Founders gathered 200 years ago to frame the Constitution whose bicentennial we now celebrate. Exercising his unique genius for profound thought in plain language, Lincoln said that "The great principle or idea" assuring our permanence as a nation is its promise "that all should have an equal chance."

The struggle to see that promise fulfilled has continued in our own era and, through the civil rights movement, has inspired new Federal laws that seek to guarantee that "equal chance" by prohibiting discrimination against any citizen on the basis of race, gender, ethnicity, age, or handicap. We can be proud of the progress we have made in securing the civil rights of all Americans. Racial segregation has been proscribed. Employment discrimination is barred. Federal statutes now outlaw housing bias, safeguard every citizen's precious right to vote, and require that people with disabilities be provided accessibility and be treated without discrimination. The misguided few who use force or violence to interfere with others' enjoyment of their civil rights face swift and sure criminal prosecution.

Despite these steps forward, much still remains to be done to make Lincoln's promise a reality and to fulfill the dream shared by leaders like Dr. Martin Luther King, Jr., Susan B. Anthony, and Mary McLeod Bethune. The example of these Americans, and of so many other brave men and women, reminds us of the tasks that belong to each of us as citizens of this great Nation. We must work to see the civil rights laws strongly enforced and to ensure that every branch of government—at every level—renders justice to individuals without regard to race, sex, color, religion, nationality, or condition of handicap. In this way, we can move toward the day when the rights of every human being to "life, liberty, and the pursuit of happiness" are secured forever.

The Congress, by Public Law 99–482, has designated August 12, 1987, as "National Civil Rights Day" and authorized and requested the President to issue a proclamation in observance of this event. Twenty-four years ago this month, Dr. Martin Luther King, Jr. led a march in Washington, D.C. to demonstrate the need for civil rights legislation. On this occasion let us pay tribute to his memory and to the memory of all those who fought for justice and equal opportunity before the law.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim August 12, 1987, as National Civil Rights Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 87-18546
Filed 8-11-87; 10:18 am]
Billing code 3195-01-M

Rules and Regulations

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FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1603

Vesting Under the Thrift Savings Plan

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Federal Retirement Thrift Investment Board (the Board) was established by Pub. L. No. 99-335 (June 6, 1986), the Federal Employees' Retirement System Act of 1986, (codified principally at 5 U.S.C. 8401-8479), as amended by Pub. L. 99-509, the Omnibus Budget Reconciliation Act of 1986, and Pub. L. 99-556, the Federal Employees' Retirement System Technical Corrections Act of 1986, to administer the Thrift Savings Plan for federal employees. Regulations of the Board are contained in Title 5, CFR, Chapter VI, Parts 1600-1699. The Executive Director is publishing in Part 1603 interim regulations concerning vesting of amounts in the accounts of participants in the Thrift Savings Plan.

DATES: Interim rules effective April 1, 1987; comments must be received on or before October 1, 1987.

ADDRESSES: Comments may be sent to James B. Petrick, Federal Retirement Thrift Investment Board, P.O. Box 18899, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: James B. Petrick (202) 653-2573.

SUPPLEMENTARY INFORMATION: Part 1603 sets forth the rules concerning vesting under the Thrift Savings Plan. 5 U.S.C. 8432(g) provides that participants shall be immediately vested in all contributions made on their behalf to the Thrift Savings Plan, except for all 1% basic government contributions, described in 5 U.S.C. 8432(c)(1), made for the period beginning after January 1, 1987. These basic contributions, plus attributable earnings, are forfeited if an employee leaves government service with less than the required number of years of federal civilian service. 5 U.S.C. 8432(g) requires three years of service for most employees before they are vested in their basic 1% government contribution. For certain other employees (including Members of Congress and Congressional employees), only two years of service are required. Civilian service for purposes of vesting under the Thrift Savings Plan is all non-military service that is creditable toward an annuity under 5 CFR Parts 831 or 842, including service that is not covered by retirement deductions under those Parts, and service for which such deductions have been refunded. It also includes service for non-federal entities which is treated under law as service for the Federal Government. The Board will use the same calculations for determining a "year of service" as used by all Federal agencies and which are set forth in the applicable parts of the Federal Personnel Manual.

Section 1603.1 sets forth the definitions applicable to this Part. Section 1603.2 states the following basic vesting rules: (1) All amounts in a CSRS employee's account are immediately vested; (2) all amounts in a FERS employee's account are immediately vested except for the basic 1% government contribution and attributable earnings. Section 1603.3 describes those FERS employees who are vested in this contribution after either two years or three years, respectively.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only internal government procedures related to the Thrift Savings Plan.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Waiver of Notice or Proposed Rulemaking and 30-day Delay of Effective Date: Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days. Participating employees began separating from government service on April 1, 1987, the day the plan began operations. Accordingly, the Plan must process forfeitures immediately.

List of Subjects in 5 CFR Part 1603

Employee benefit plans, Government employees, Retirement, Pensions.

Federal Retirement Thrift Investment Board.

Francis X. Cavanaugh,
Executive Director.

Title 5 of the Code of Federal Regulations is amended to add Part 1603 to Chapter VI to read as follows:

PART 1603—VESTING

Sec.
1603.1 Definitions.
1603.2 Vested portions of individual account.
1603.3 Service requirements.

Authority: 5 U.S.C. 8474 (b)(5) and (c)(1).

§ 1603.1 Definitions.

Terms used in this Part shall have the following meaning:

"Administrative expenses" means expenses of the Federal Retirement Thrift Investment Board payable under the provisions of 5 U.S.C. 8437.

"Basic 1% contribution" means any government contribution made on behalf of a FERS employee pursuant to 5 U.S.C. 8432(c)(1), plus net earnings attributable to that contribution.

"Civilian service" means any non-military service which is creditable under either 5 U.S.C. 8411 or subchapter III of chapter 83 of title 5, U.S.C., determined without regard to any time limitations, any deposit or redeposit requirements contained in those statutory provisions, any requirement that the individual become subject to either of those statutory provisions after performing the service involved, or any requirement that the individual give notice in writing to the official by whom that individual is paid of that individual's desire to become subject to the retirement system established by either Chapter 83 or Chapter 84 of Title 5, United States Code.

"CSRS employee" means "employee" as defined in 5 U.S.C. 8331(1) or "Member" as defined in 5 U.S.C. 8331(2).

"FERS employee" means "employee" as defined in 5 U.S.C. 8401(11) or "Member" as defined in 5 U.S.C. 8401(20).

"Individual account" means the total of all sums contributed on behalf of an employee pursuant to 5 U.S.C. 8351 or 8432, plus net earnings.

"Net earnings" means earnings minus applicable administrative expenses.

"Separation from government service" means any separation of more than three days and includes separation resulting from the death of the employee.

"Vested" means those amounts in an individual account which are nonforfeitable upon the employee's separation from government service.

"Year of civilian service" means a year of service calculated under Subchapter S-3 of Supplement 831-1 of the Federal Personnel Manual.

§ 1603.2. Vested portions of individual account.

(a) All amounts in a CSRS employee's individual account are immediately vested.

(b) Except as provided in paragraph (c) of this section, all amounts in a FERS employee's individual account are immediately vested.

(c) The basic 1% contribution shall be forfeited upon separation from government service if the separation begins before the employee meets the applicable service requirements, as set forth in section 1603.3.

§ 1603.3. Service requirements.

(a) Except as provided in paragraph (b) of this section, all FERS employees shall be vested in their basic 1% contribution upon completing three years of civilian service.

(b) FERS employees shall be vested in their basic 1% contribution upon completing two years of civilian service if, upon separation from government service, they are serving in one of the following positions:

(1) A position in the Senior Executive Service as a non-career appointee (as defined in 5 U.S.C. 3132(a)(7));

(2) Positions listed in 5 U.S.C. 5312, 5313, 5314, 5315 or 5316;

(3) A position placed in level IV or level V of the Executive Schedule, pursuant to 5 U.S.C. 5317;

(4) A position in the Executive Branch which is excepted from the competitive service by the Office of Personnel Management because of the confidential and policy-determining character of the position; or

(5) A Member of Congress or a Congressional employee.

[FR Doc. 87-18420 Filed 8-11-87; 8:45 am]

BILLING CODE 6760-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 704

Conservation Reserve Program; Erosion Eligibility and Liquidated Damages; Correction

AGENCY: Agricultural Stabilization and Conservation Service, Commodity Credit Corporation, USDA.

ACTION: Interim rule, correction.

SUMMARY: This action corrects the preamble of the interim rule published at 52 FR 27536 on Wednesday, July 22, 1987, to set forth the effective date of the interim rule. The fact that the interim rule was to be effective upon the date of publication was referred to in the Supplementary Information but was not set forth in the preamble.

FOR FURTHER INFORMATION CONTACT: James R. McMullen, Director, Conservation and Environmental Protection Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013, (202) 447-6221.

The preamble for the interim rule amending CFR Part 704 which was published on July 22, 1987, at 52 FR 27536 is corrected by revising the paragraph captioned "Date" to read as follows:

"DATES: This interim rule shall be effective July 22, 1987. Comments must be received on or before September 21, 1987 to be assured of consideration."

Signed at Washington, DC August 6, 1987.

Vern Neppl,

Acting Administrator, Agricultural Stabilization and Conservation Service, Executive Vice President, Commodity Credit Corporation.

[FR Doc. 87-18301 Filed 8-11-87; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF ENERGY

10 CFR Part 862

[Docket No. DP-RM-86-101]

Restrictions on Aircraft Landing and Air Delivery at Department of Energy Nuclear Sites

AGENCY: Defense Programs, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy is promulgating regulations prohibiting the operation or use of aircraft on designated sites and air delivery from above or contiguous to designated sites. "Air delivery" is defined in the regulations as delivering or retrieving a person or object by airborne means, including but not limited to, aircraft. Other activities prohibited by the regulations include removal or movement of a downed aircraft from or on a designated site without prior authorization from DOE; failure to comply with a DOE order to remove a downed aircraft from a designated site; and violation of certain FAA regulations over a designated site. The regulations are not applicable to (1) aircraft operating pursuant to official business of the Federal Government; (2) aircraft over-flying or in the process of landing pursuant to official business of a state or local law enforcement authority with prior notification to DOE; or (3) aircraft in the process of landing on a DOE site due to circumstances beyond the control of the operator and with prior notification to DOE, if possible. Aircraft described in (2) and (3) above, however, are within the scope of this part upon landing at a DOE designated site.

The regulations also establish a voluntary minimum altitude of 2,000 ft. above the terrain to which the regulations apply for all aircraft. This complements more stringent FAA restrictions or prohibitions regarding airspace over certain DOE property, specifically the Pantex Plant, Amarillo, Texas; the Nevada Test Site, Las Vegas, Nevada; the Lawrence Livermore Laboratory, Site 300, Tracy, California and Los Alamos National Laboratory, Los Alamos, New Mexico. In all cases where one exists, the more stringent FAA restriction or prohibition takes precedence over this voluntary minimum altitude.

EFFECTIVE DATE: September 11, 1987.

FOR FURTHER INFORMATION CONTACT:

John H. Hnatio, Office of Safeguards and Security, DP 343.4, Department of Energy, Germantown, Washington DC, 20545, (301) 353-2478

Jo Ann Williams, Office of the Assistant General Counsel for Nuclear Affairs, GC 31, Department of Energy, Washington DC, 20585, (202) 586-6975.

SUPPLEMENTARY INFORMATION:

I. Background

The DOE has the responsibility for nuclear energy research and development, including naval nuclear propulsion, and for the design, development, and production of the Nation's nuclear weapons. DOE also has the responsibility for protecting and defending the facilities dedicated to these programs and the highly sensitive, valuable, and hazardous resources located at these facilities. The establishment of a security policy regarding aircraft landing and air delivery is one segment of a comprehensive DOE effort to ensure the protection of its nuclear facilities. These regulations are also promulgated in response to the concerns for greater airspace security at these facilities expressed by the National Security Council, the Congress, and the General Accounting Office.

These regulations are modeled after regulations of the National Park Service regarding aircraft landing and air delivery at 36 CFR 2.17.

II. Regulatory Requirements

A. National Environmental Policy Act

The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) requires federal agencies to prepare detailed statements on major Federal actions significantly affecting the quality of the human environment. The DOE has determined that these regulations do not significantly affect the quality of the human environment; therefore, the preparation of an Environmental Impact Statement is not required.

B. Executive Order No. 12291

It has been determined that these regulations are not a major rule subject to the requirements of Executive Order No. 12291 (46 FR 13193, February 19, 1981). This determination is based on the fact that the regulations are not likely: (1) To result in an annual effect on the economy of $100 million or more; (2) to result in a major increase in costs or prices for industries; Federal, State, or local Government agencies; or geographic regions; or (3) to cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

These regulations were submitted to the Director of the Office of Management and Budget for a 10 day review period as required by section 3(c)(3) of Executive Order 12291. The Director has concluded his review under that Executive Order and had no comments.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the DOE certifies that sections 603 and 604 of the Act do not apply to these regulations. This certification is based on the fact that these regulations will not have a significant economic impact on a substantial number of small entities since they only establish a security policy regarding aircraft for DOE sites.

D. Paperwork Reduction Act

These regulations do not impose a collection of information requirement; therefore, it is not necessary to submit them to the Office of Management and Budget for review under the Paperwork Reduction Act (44 U.S.C. 3501 through 3520).

III. Analysis of Public Comments

A notice of proposed rulemaking was published on pages 35518–35521 of the **Federal Register** of October 6, 1986. The comment period ended on November 20, 1986. Public hearings were held in Las Vegas, Nevada on October 28, 1986 and in Washington, DC on October 30, 1986. Written comments were received from one private citizen. No one requested an opportunity to speak at either hearing.

The one letter received expressed concern that it would be difficult to comply with the voluntary 2000 ft. (AGL) minimum altitude when operating near DOE's Pinellas Plant which is near the St. Petersburg International Airport in Florida. Specifically, the commenter indicated his fear that pilots who did not comply with the voluntary minimum altitude standard would be subject to the criminal penalties set out in the proposed regulations at § 862.4(f).

Clearly, DOE does not intend that criminal sanctions be applied to those who do not comply with the voluntary minimum altitude standard. In choosing a voluntary standard, DOE sought to balance its national security concerns with the need of pilots and the flying public for accessibility to airspace and airports. DOE recognizes that there will be occasions when aircraft will need to fly below the voluntary minimum over its designated sites, particularly with respect to landing and take-off patterns. For example, aircraft using the St. Petersburg International Airport near the Pinellas Plant mentioned above and the Allegheny County Airport near the Bettis Atomic Power Laboratory will not be able to observe the 2,000 ft. minimum altitude. The notice designating a site as being covered by these regulations will indicate if DOE has determined that a minimum altitude lower than 2,000 ft. (AGL) is appropriate. However, DOE does request that where no need exists to fly below the 2,000 ft. (AGL) minimum altitude, aircraft exceed that altitude to assist DOE in the protection of its facilities and resources, as well as, for their own safety.

The commenter also requested that DOE indicate how the aviation industry will be informed about the rule. DOE is notifying the public by promulgation of this rule in the **Federal Register** and will designate sites to which the regulations apply by future **Federal Register** notices. DOE is also working with the FAA to assure that FAA advisory circulars are issued and aeronautical charts marked. Managers of Operations may also notify the public by press release about site designation.

IV. Modifications

After further consideration, DOE determined that certain modifications to the proposed regulations were desirable. Changes have been made in format and language for clarity.

Rather than apply these regulations to all its nuclear sites, DOE has decided to limit application to sites designated by DOE through notice in the **Federal Register.** Designation procedures are set forth in a new § 862.7.

The procedures for removal of aircraft have been revised to assure that aircraft owners are accorded due process. Financial obligations of the aircraft owner to DOE are also set forth with greater specificity.

The proposed rule contained a provision relating to radio communication between aircraft and designated DOE sites. It was DOE's original intention that this final rule would substitute a provision that stated that a frequency had been dedicated by the National Telecommunications and Information Administration (NTIA). Necessary licensing actions have not been completed. DOE intends to publish an amendment to these regulations designating frequencies to be used for air to ground communication at designated sites as soon as all licensing is effected.

List of Subjects in 10 CFR Part 862

Security measures, Penalties, Nuclear energy, Aircraft.

For reasons set out in the preamble, 10 CFR Chapter III is amended as set forth below.

Issued at Washington DC this 30 day of July, 1987.

Troy E. Wade, II,

Acting Assistant Secretary for Defense Programs.

Part 862 is added to 10 CFR Chapter III to read as follows:

PART 862—RESTRICTIONS ON AIRCRAFT LANDING AND AIR DELIVERY AT DEPARTMENT OF ENERGY NUCLEAR SITES

Sec.

Authority: 42 U.S.C. 2201(b), 2201(i) and 2278(a).

§ 862.1 Purpose.

The purpose of this part is to set forth Department of Energy, hereinafter "DOE", security policy regarding aircraft and air delivery on nuclear sites under the jurisdiction of DOE pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

§ 862.2 Scope.

(a) This part applies to all persons or aircraft entering or otherwise within or above areas within the boundaries of lands or waters subject to the jursidiction, administration, or in the custody of the DOE at sites designated by DOE.

(b) This part is not applicable to: (1) Aircraft operating pursuant to official business of the Federal Government; (2) aircraft over-flying or in the process of landing pursuant to official business of a state or local law enforcement authority with prior notification to DOE; or (3) aircraft in the process of landing on a DOE site due to circumstances beyond the control of the operator and with prior notification to DOE, if possible.

(c) Aircraft in (b)(2) and (b)(3) of this section are within the scope of this part upon landing at a DOE designated site.

§ 862.3 Definitions.

(a) Air delivery. Delivering or retrieving a person or object by airborne means, including but not limited to, aircraft.

(b) Aircraft. A manned a unmanned device or any portion thereof, that is commonly used or intended to be used for flight in the air, including powerless flight. Such devices include but are not limited to any parachute, hovercraft, helicopter, glider, airplane or lighter than air vehicle.

(c) Boundary. A delineation on a map of Federal interest in land or water utilized by DOE pursuant to the Atomic Energy Act of 1954, as amended:

(1) Authorized by Congress, or

(2) Published pursuant to law in the Federal Register, or

(3) Filed or recorded with a State or political subdivision in accordance with applicable law.

(d) Designated site. An area of land or water identified in accordance with § 862.7 of this part.

(e) Downed aircraft. An aircraft that is on a designated site due to emergency landing or for any other reason.

(f) Manager of Operations. The Manager of a DOE Operations Office, the Manager of the Pittsburgh Naval Reactors Office, the Manager of the Schnectady Naval Reactors Office and, for designated sites administered directly by DOE Headquarters, the Director of the Office of Safeguards and Security.

§ 862.4 Prohibitions and penalties.

(a) The following activities are prohibited by his part:

(1) Operation or use of aircraft on lands or waters of designated sites.

(2) Air delivery to or from designated sites.

(3) Removal or movement of downed aircraft, or participation in the removal or movement of downed aircraft, from or on a designated site unless prior authorization is obtained pursuant to § 862.5 of this part.

(4) Failure to remove a downed aircraft from a designated site in accordance with an order issued by the cognizant DOE Manager of Operations under § 862.5 of this part.

(5) Violation of Federal Aviation Administration regulations regarding minimum altitudes and prohibited flight maneuvers over a designated site.

(b) A person willfully engaging in activities prohibited by this Part may be subject to the imposition of criminal penalties set forth in sections 223 and 229 of the Atomic Energy Act, as amended [42 U.S.C. 2273 and 2278(a)].

§ 862.5 Procedures for removal of downed aircraft.

(a) An aircraft on or brought on to a designated site, except as provided in § 862.2 (b)(1), shall not be moved within or removed from such areas except as provided for in this section. All such aircraft are subject to full inspection by DOE security personnel upon landing upon order of the Manager of Operations or his designee. Any attempt to depart or remove the aircraft from a designated site without clearance obtained pursuant to this section, may be assumed to be indicative of hostile intent by security forces at such sites.

(b)(1) The cognizant DOE Manager of Operations for a designated site may, on his own initiative, issue a written order to the owner or operator of a downed aircraft to require the removal of that aircraft from the site within 20 days of this notice. Such an order shall specify:

(i) The date upon which removal operations must be completed;

(ii) The times and means of access to and from the downed aircraft to be removed;

(iii) The manner of removal; and

(iv) An estimate of the cost of removal to DOE for which the owner or operator will be held liable if removal is accomplished by DOE.

(2) The owner or operator of the downed aircraft may file a written petition, supported by affidavits, to the cognizant Manager of Operations requesting that the order be modified or set aside. The petition may be granted by the Manager of Operations for good cause shown, upon a finding that it is clearly consistent with the national security, public safety, and federal property interests. Such petition must be filed at least 10 days prior to the date upon which removal is to be initiated, as specified in the order. The written decision of the Manager of Operations shall be a final agency action.

(c)(1) The owner of a downed aircraft may petition the cognizant Manager of Operations of permission to move or remove the downed aircraft from or within a designated site. The petition must provide assurances that the owner will fully compensate DOE for all costs incurred or damages experienced as a result of landing or removal through a contact for services. The Manager of Operations may, for good cause shown, waive part or all of the compensation which might otherwise be due DOE.

(2) The Manager of Operations may deny such petition in whole or part and prohibit removal of a downed aircraft upon finding that:

(i) The removal of a downed aircraft would create an unacceptable safety or security risk;

(ii) The removal of a downed aircraft would result in excessive resource loss of property damage or an unacceptable disruption of federal activities;

(iii) The removal of downed aircraft is impracticable or impossible;

(iv) The owner has failed to provide adequate assurances that all costs incurred or damages experienced by DOE due to landing or removal of aircraft will be fully paid immediately upon removal by the owner under a contract for services;

(v) An inspection of the aircraft has not been conducted by DOE security personnel.

(3) In the event that such petition is granted in whole or part, the cognizant Manager of Operations may issue an order, as set forth in (b)(1) (i) through (iv) of this section. In the event that a petition is denied in whole or part, the Manager of Operations shall issue a written decision which shall set forth the reasons for such denial.

(d) Failure to comply with an order issued by the Manager of Operations pursuant to this section is basis for DOE to consider the downed aircraft to be abandoned property. DOE may take whatever measures it deems necessary when it determines that downed aircraft is abandoned property.

(e) Notwithstanding (b) and (c), the Manager of Operations may move or remove a downed aircraft from such an area upon oral or written notification to the owner or operator of such aircraft upon a finding that national security or operational requirements necessitate expedited movement or removal. The owner or operator may be held jointly and separately liable for all expenses incurred by DOE in the movement or removal of such aircraft. Such expenses shall be deemed to be incurred through an implied contract at law for services.

§ 862.6 Voluntary minimum altitude.

In addition to complying with all applicable FAA prohibitions or restrictions, aircraft are requested to maintain a minimum altitude of 2,000 feet above the terrain of a designated site. Applicable FAA prohibitions or restrictions take precedence over this voluntary minimum altitude.

§ 862.7 Designation of sites.

(a) DOE shall designate sites covered by this part as deemed necessary, consistent with the national security and public safety, through notice in the Federal Register.

(b) This part shall be effective as to any facility, installation, or real property on publication in the Federal Register of the notice designating the site.

(c) Upon designation of a site, the cognizant Manager of Operations may inform the public of such designation through press release or posting of notice at airfields in the vicinity of the designated site.

[FR Doc. 87-18340 Filed 8-11-87; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 70629-7129]

Carbon-Bonded Carbon Thermal Insulating Materials; Addition to Commodity Control List

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: Export Administration maintains the Commodity Control List (CCL), which contains those items controlled for export by the Department of Commerce. This rule adds an entry, numbered 1734A, to the CCL covering certain low density, rigid, carbon-bonded, fibrous or non-fibrous carbon thermal insulating materials. The addition of this entry results from the review of the system of strategic export controls maintained by the United States and certain allied countries through the Coordinating Committee (COCOM).

EFFECTIVE DATE: This rule is effective August 12, 1987.

FOR FURTHER INFORMATION CONTACT: John Black or Patricia Muldonian, Regulations Branch, Office of Technology and Policy Analysis, Export Administration, Telephone: (202) 377-2440. For technical questions on carbon thermal insulating materials, call Jeffrey Tripp, Capital Goods Technical Center, Office of Technology and Policy Analysis, Export Administration, Telephone: (202) 377-1309.

SUPPLEMENTARY INFORMATION:

Saving Clause

Shipments of items removed from general license authorizations as a result of this regulation that were on dock for lading, on lighter, laden aboard an exporting carrier, or enroute aboard a carrier to a port of export pursuant to actual orders for export before (two weeks after date of publication) may be exported under the general license provisions up to and including (four weeks after date of publication). Any such items not actually exported before midnight (four weeks after date of publication) require a validated export license.

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 also is 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 mentions 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:

PART 399—[AMENDED]

1. The authority citation for 15 CFR 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 Supplement 1, Group 7 [Amended]

2. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), a new entry 1734A is added (in numerical order, disregarding the first digit) reading as follows:

1734A Low density, rigid, carbon-bonded, fibrous or non-fibrous carbon thermal insulating materials as described in this entry.

Controls for ECCN 1734A

Unit: Report in "lbs."
Validated License Required: Country Groups QSTVWYZ
GLV $ Value Limit: $1,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations
Processing Code: CM
Reason for Control: National security
Special Licenses Available: None

List of Materials Controlled by ECCN 1734A

Low density, rigid, carbon-bonded, fibrous or non-fibrous carbon thermal insulating materials having all of the following characteristics:

(a) A capability of operating at temperatures greater than 2273 K (2000°C);

(b) A density greater than 100 kg/m^3 and less than 300 kg/m^3;

(c) A compressive strength greater than 0.1 MPA and less than 1.0 MPA;

(d) A flexural strength of greater than 1.0 MPA; *and*

(e) A carbon content of greater than 99.9% of total solids.

Date: August 7, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87–18342 Filed 8–11–87; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regs. No. 16]

Pension Funds for Deeming Purposes and Grandfathering Provisions

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: We are amending our regulations to include a rule that pension funds are not counted as resources for deeming purposes and to make explicit in our grandfathering rules that a Supplemental Security Income (SSI) "supplemental security income benefit" means a Federal benefit only and does not include any State supplementation.

EFFECTIVE DATE: These regulations are effective September 1, 1987.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (303) 594–7463.

SUPPLEMENTARY INFORMATION: These regulations finalize two new rules which were published in the **Federal Register** on November 8, 1982 (47 FR 50511) as a Notice of Proposed Rulemaking (NPRM). These new rules deal with pension funds for deeming purposes and a grandfathering provision. We provided a 60-day comment period and no comments were received on these two rules. We have already published several final rules from the 1982 NPRM. Once these final rules are published, we will formally withdraw all remaining portions of the NPRM.

Under section 1614(f) of the Act, when an individual applies for or receives SSI benefits and we consider the individual's own resources, we also deem (consider to belong to the individual) resources of an individual's ineligible spouse who lives in the same household, ineligible parent or spouse of a parent (if the eligible individual is a child) who lives in the same household as the child, and sponsor or the spouse of such sponsor (if the eligible individual is an alien). In addition, we deem the resources of an "essential person" under section 211(a)(1)(B) of Pub. L. 93–66. However, the Secretary has authority under sections 1614(f) (1) and (2) of the Act not to deem the resources of an ineligible spouse, or ineligible parent (or spouse of a parent) " to the extent determined by the Secretary to be inequitable under the circumstances." This authority does not extend to the other sources of deeming named.

For reasons of equity, we are adding new rules to the deeming situations in paragraphs (a) and (b) of 20 CFR 416.1202 (which were 20 CFR 416.1262 and 416.1263 in the NPRM). Pension funds owned by an ineligible spouse or ineligible parent or spouse of a parent will not be counted as an eligible individual's resources. We define pension funds as funds held in individual retirement accounts (IRA), as described by the Internal Revenue Code, or in work-related pension plans (including such plans for self-employed individuals, sometimes referred to as Keogh plans). Amounts distributed from a pension fund to a pensioner will count as income to the pensioner that can be deemed to a spouse or child.

We believe it is inequitable to jeopardize the future of a person whose resources are deemed so that another individual's current needs can be met. This requirement is especially burdensome because deeming is often a temporary situation which ceases, for example, when a child reaches age 18 or a couple no longer lives together in the same household. In order to be supportive of families, we believe it is preferable to permit a spouse or parent to provide for his or her own future while recognizing the current needs of the otherwise eligible individual. Therefore, we will not count pension funds owned by an ineligible spouse, ineligible parent or ineligible spouse of a parent.

We will continue our policy of counting the equity value of these funds (including any interest accrued) as an available resource to an applicant or recipient who is the owner of a pension fund, and those owned by an essential person, eligible spouse of an applicant or beneficiary, or a sponsor (or spouse of a sponsor) or an alien.

It is fair and correct to count the pension funds of an applicant/recipient because SSI is a current needs-based program. Consequently, the individual's own current needs must outweigh his or her future needs.

We are not changing the treatment of pension funds owned by an essential person or sponsor (or spouse of a sponsor) of an alien because in these cases, the Act does not authorize the Secretary to decline to deem income and resources when he or she determines such deeming is inequitable.

We are modifying our policy on the alternative resource rules at 20 CFR 416.1260(a)(2) (which was 20 CFR 416.1281(a)(4) in the NPRM). These alternative resource rules apply to persons who receive SSI benefits because they are aged, blind or disabled and were transferred from State programs to the Federal SSI program when it began in January 1974. Under section 1611(g) of the Act, these persons must have received State assistance payments for the aged, blind or disabled for December 1973 under the provisions of the State plan which was in effect for October 1972, must continue to live in the same State, and must continue to be eligible for SSI benefits. We have added

a statement that an "SSI benefit" means a Federal benefit only and does not include any State supplementation. Prior to the rules on the counting of income which were published in the **Federal Register** on October 3, 1980 (45 FR 65541), SSA interpreted an SSI benefit for the purpose of the alternative income rules to include receipt of a State supplementary payment. The income regulations qualified the rule by limiting an SSI benefit to a Federal payment. The qualification was necessary to implement the alternative income rules in a manner consistent with the Act. The alternative rules on resources are, therefore, being revised to make them consistent with the income rules and the Act. We intend to apply this new interpretation in a limited manner so that it will have only future effect and will not be applied to any beneficiary who received the advantage of a broader definition of an SSI benefit prior to publication of these final rules.

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because these rules affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations impose no additional reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: December 1, 1986.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: March 13, 1987.

Otis R. Bowen,

Secretary of Health and Human Services.

Subpart L of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

PART 416—[AMENDED]

1. The authority citation for Subpart L of Part 416 is revised to read as follows and all other authority citations which appear throughout Subpart L are removed:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f) and 1631(d) of the Social Security Act, as amended; Sec. 211 of Pub. L. 93–66; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f) and 1383(d).

2. In § 416.1202, paragraphs (a) and (b) are revised to read as follows:

§ 416.1202 Deeming of resources.

(a) *Married individual.* In the case of an individual who is living with a person not eligible under this part and who is considered to be the husband or wife of such individual under the criteria in §§ 416.1806 and 416.1811, such individual's resources shall be deemed to include any resources, not otherwise excluded under this subpart, of such spouse whether or not such resources are available to such individual. In addition to the exclusions listed in § 416.1210, pension funds which the ineligible spouse may have are excluded. "Pension funds" are defined as funds held in individual retirement accounts (IRA), as described by the Internal Revenue Code, or in work-related pension plans (including such plans for self-employed individuals, sometimes referred to as Keogh plans).

(b) *Child.* In the case of a child (as defined in § 416.1856) who is under age 18, such child's resources shall be deemed to include any resources, not otherwise excluded under this subpart, of an ineligible parent of such child (or the ineligible spouse of a parent) who is living in the same household (as defined in § 416.1851) as such child, whether or not available to such child, to the extent that the resources of such parent (or such spouse of a parent) exceed the resource limits described in § 416.1205. (If the child is living with only one parent, the resource limit for an individual applies. If the child is living with both parents (or one parent and his or her spouse), the resource limit for an individual and spouse applies.) In addition to the exclusions listed in § 416.1210, pension funds which the ineligible parent or spouse of a parent may have are also excluded. "Pension funds" are defined in paragraph (a) of this section. As used in this section, the term "parent" means the natural or adoptive parent of a child and "spouse of a parent" means the spouse (as defined in § 416.1806) of such natural or adoptive parent.

* * * * *

3. In § 416.1260, paragraph (a)(2) is revised to read as follows:

§ 416.1260 Special resource provision for recipients under a State plan.

(a) * * *

(2) Has not, since December 1973, been ineligible for an SSI benefit for a period exceeding 6 consecutive months. An SSI benefit means a Federal benefit only; it does not include any State supplementation.

* * * * *

[FR Doc. 87–18310 Filed 8–11–87; 8:45 am]

BILLING CODE 4190–11–M

Food and Drug Administration

21 CFR Part 178

[Docket No. 85F–0441]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of a stabilized chlorine dioxide solution for use as a sanitizing rinse for food-processing equipment. This action responds to a petition filed by Bio-Cide International, Inc.

DATES: Effective August 12, 1987; objections by September 11, 1987. The Director of the Office of the Federal Register approves the incorporation by reference of certain publications at 21 CFR 178.1010, effective August 12, 1987.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 25, 1985 (50 FR 43467), FDA announced that a petition (FAP 5H3889) had been filed by Bio-Cide International, Inc., 1111 North Flood Ave. (now 2845 Broce Dr., P.O. Box 2700), Norman, OK 73070, proposing that § 178.1010 *Sanitizing solutions* (21 CFR 178.1010) be amended to provide for a stabilized chlorine dioxide solution for use as a sanitizing rinse for food-processing equipment.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the food additive is safe, and that the regulations should be amended in 21 CFR 178.1010 by adding new paragraphs (b)(34) and (c)(29).

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

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

Any person who will be adversely affected by this regulation may at any time on or before September 11, 1987, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, 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 of the Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.1010 is amended by adding new paragraphs (b)(34) and (c)(29) to read as follows:

§ 178.1010 Sanitizing solutions.

* * * * *

(b) * * *

(34) An aqueous solution of an equilibrium mixture of oxychloro species (predominantly chlorite, chlorate, and chlorine dioxide) generated either (i) by directly metering a concentrated chlorine dioxide solution, prepared just prior to use, into potable water to provide the concentration of available chlorine dioxide stated in paragraph (c)(29) of this section, or (ii) by acidification of an aqueous alkaline solution of oxychloro species (predominantly chlorite and chlorate) followed by dilution with potable water to provide the concentration of available chlorine dioxide described in paragraph (c)(29) of this section.

(c) * * *

(29) Solutions identified in paragraph (b)(34) of this section should provide, when ready to use, at least 100 parts per million and not more than 200 parts per million available chlorine dioxide as determined by the method titled "Iodometric Method for the Determination of Available Chlorine Dioxide (50–250 ppm available ClO_2)," which is incorporated by reference. Copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–310), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L. St. NW., Washington, DC 20408.

* * * * *

Dated: August 3, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–18267 Filed 8–11–87; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Parts 41 and 42

[SD–108.861]

Visas: Documentation of Nonimmigrants and Immigrants; Ineligible Classes

AGENCY: Department of State, Bureau of Consular Affairs.

ACTION: Final rule.

SUMMARY: This final rule amends 22 CFR 41.91(a)(9) & (10) and 42.91(a)(9) & (10) relating to certain ineligible classes of aliens by adopting principles set forth by the Board of Immigration Appeals (BIA) with regard to foreign convictions and by extending them to domestic judicial determinations as well. This final rule affects an alien's eligibility to receive a visa because of criminal offenses involving moral turpitude committed prior to the age of eighteen pursuant to the precedent decisions rendered by the Board of Immigration Appeals in the cases of *Matter of Ramirez-Rivero* and *Matter of De La Nues*.

EFFECTIVE DATE: May 13, 1987.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Services, or Guida Evans-Magher, Consular Affairs Specialist, Washington, DC 20520 (202) 663–1204 or (202) 663–1206.

SUPPLEMENTARY INFORMATION: As a result of decisions made by the Board of Immigration Appeals in the *Matter of Ramirez-Rivero* and the *Matter of De La Nues*, new standards were set defining treatment of juvenile delinquency by foreign courts. Standards established by Congress in the Federal Juvenile Delinquency Act (FJDA), as amended, govern whether an offense is to be considered an act of juvenile delinquency or a crime by U.S. standards. In addition, the Comprehensive Crime Control Act of 1984 further amended the FJDA by lowering the minimum age from 16 to 15 for prosecution of a juvenile as an adult

and by permitting trial of youths between the age of 15 and 18 years as adults for felonies involving violence and for certain offenses relating to drugs.

On May 13, 1987, the Department published at 52 FR 17942 an Interim Rule amending §§ 41.91(a)(9) and (10) and 42.91(a)(9) and (10) in order to bring Department regulations in compliance with United States standards on conduct constituting an act of juvenile delinquency. Since the decisions of the BIA (*Matter of Ramirez-Rivero*, 18 I&N Dec. 135 and *Matter of De la Nues*, 18 I&N Dec. 140) and subsequent amendments to the FJDA are in conflict with State Department regulations, these amendments are promulgated to conform with those decisions and the FJDA amendments relating to criminal offenses committed by certain aliens prior to age fifteen or between the ages of fifteen and eighteen.

Comment Received

Interested persons were given the opportunity to submit written comments on the Interim Rule on or before June 5, 1987. One comment has been received and its analysis follows.

The single commenter suggested that the new standards for juvenile treatment were more restrictive than current law and recommended further that consular officials "retain" discretion to waive ineligibility for aliens between the ages of 15 and 17 years.

Under current regulations at 22 CFR 41.91(a)(9)(iii), 22 CFR 41.91(a)(10)(i), 22 CFR 42.91(a)(9)(iv), and 22 CFR 42.91(a)(10)(ii) an alien is not ineligible to receive a visa under the provisions of section 212(a)(9) and (10) of the Immigration and Nationality Act by reason of having been tried and treated as a juvenile by a juvenile court for the commission of an offense involving moral turpitude provided the alien was under the age of eighteen years at the time the offense was committed. As many foreign jurisdictions do not have juvenile courts, many aliens under the age of eighteen years are tried as adults and, thus, are often found to be ineligible for visa issuance. The new regulations treat all aliens uniformly according to federal standards established under the Federal Juvenile Delinquency Act (FJDA). This treatment is considered to be less restrictive, especially for those aliens convicted in jurisdictions where no juvenile court system exists. Furthermore, under the current law as well as under the new law, consular officers possess no authority to exercise discretion in applying the statutory and regulatory standards under the provisions of section 212(a)(9) and (10) of the Act. Thus, this change does not remove any "discretion" from consular officers adjudicating cases within the purview of sections 212(a)(9) and (10) of the Act as suggested.

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

List of Subjects in 22 CFR Parts 41 and 42

Visas, Aliens, Nonimmigrants, Immigrants, Ineligible classes.

In view of the foregoing, Interim Rule 108–858, amending 22 CFR Parts 41 and 42, published at 52 FR 17942, May 13, 1987, is adopted as a final rule without amendments and is republished for the convenience of the user. The effective date of May 13, 1987 is retained.

PART 41—VISAS: INELIGIBLE CLASSES OF NONIMMIGRANTS

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

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

2. Section 41.91(a)(9)(iii) is revised to read:

§ 41.91 Aliens ineligible to receive visas.

(a) *Aliens ineligible under the provisions of section 212(a) of the Act.*

* * * * *

(9) *Crime involving moral turpitude.*

* * *

(iii) An alien shall not be ineligible to receive a visa under section 212(a)(9) of the Act by reason of any offense committed prior to the alien's fifteenth birthday. Nor shall an alien be ineligible to receive a visa under section 212(a)(9) of the Act by reason of any offense committed between the alien's fifteenth and eighteenth birthdays unless such alien was tried and convicted as an adult for a felony involving violence as defined in section 1(1) and section 16 of Title 18 of the United States Code. An alien tried and convicted as an adult for one of the foregoing violent felony offenses committed after having attained the age of fifteen years shall be subject to the provisions of section 212(a)(9) of the Act regardless of whether at that time juvenile courts existed within the jurisdiction of the conviction.

* * * * *

3. Section 41.91(a)(10)(i) is revised to read:

§ 41.91 Aliens ineligible to receive visas.

(a) *Aliens ineligible under the provisions of section 212(a) of the Act.*

* * * * *

(10) *Conviction of two or more offenses.* * * *

(i) An alien shall not be ineligible to receive a visa under section 212(a)(10) of the Act by reason of any offense committed prior to the alien's fifteenth birthday. Nor shall an alien be ineligible to receive a visa under section 212(a)(10) of the Act by reason of any offense committed between the alien's fifteenth and eighteenth birthdays unless such alien was tried and convicted as an adult for a felony involving violence as defined in section 1(1) and section 16 of Title 18 of the United States Code. An alien, tried and convicted as an adult for one of the foregoing violent felony offenses committed after having attained the age of fifteen years and who has also been convicted of at least one other such offense or any other offense committed as an adult, shall be subject to the provisions of section 212(a)(10) of the act, regardless of whether at that time juvenile courts existed within the jurisdiction of the conviction.

* * * * *

PART 42—VISAS: INELIGIBLE CLASSES OF IMMIGRANTS

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

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

2. Section 42.91(a)(9)(iv) is revised to read:

§ 42.91 Aliens ineligible to receive visas.

(a) *Aliens ineligible under the provisions of section 212(a) of the Act.*

* * * * *

(9) *Crime involving moral turpitude.*

* * *

(iv) An alien shall not be ineligible to receive a visa under section 212(a)(9) of the Act by reason of any offense committed prior to the alien's fifteenth birthday. Nor shall an alien be ineligible to receive a visa under section 212(a)(9) of the Act by reason of any offense committed between the alien's fifteenth and eighteenth birthdays unless such alien was tried and convicted as an adult for a felony involving violence as defined in section 1(1) and section 16 of Title 18 of the United States Code. An alien tried and convicted as an adult for one of the foregoing violent felony offenses committed after having attained the age of fifteen years shall be subject to the provisions of section

212(a)(9) of the Act regardless of whether at that time juvenile courts existed within the jurisdiction of the conviction.

* * * * *

3. Section 42.91(a)(10)(ii) is revised to read:

§ 42.91 Aliens ineligible to receive visas.

(a) *Aliens ineligible under the provisions of section 212(a) of the Act.*

* * * * *

(10) *Conviction of two or more offenses.* * * *

(ii) An alien shall not be ineligible to receive a visa under section 212(a)(10) of the Act by reason of any offenses committed prior to the fifteenth birthday. Nor shall any alien be ineligible to receive a visa under section 212(a)(10) of the Act by reason of any offense committed between the alien's fifteenth and eighteenth birthday unless such alien was tried and convicted as an adult for a felony involving violence as defined in section 1(1) and section 16 of Title 18 of the United States Code. An alien, tried and convicted as an adult for one of the foregoing violent felony offenses committed after having attained the age of fifteen years, and who has also been convicted of at least one other such offense or any offense committed as an adult, shall be subject to the provisions of section 212(a)(10) of the Act, regardless of whether at that time juvenile courts existed within the jurisdiction of the conviction.

* * * * *

Dated: July 8, 1987.

Joan M. Clark,

Assistant Secretary for Consular Affairs.

[FR Doc. 87-18343 Filed 8-11-87; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 40

[DoD Directive 5500.7]

Standards of Conduct: Correction

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule amendment.

SUMMARY: This document corrects omissions and typographical errors in the Standard of Conduct final rule, previously published on June 19, 1987 (32 CFR Part 40).

EFFECTIVE DATE: May 6, 1987.

ADDRESS: Office of General Counsel, Standards of Conduct Office, Pentagon, Washington, DC 20301-1600.

FOR FURTHER INFORMATION CONTACT: David W. Ream or Randi E. DuFresne, telephone (202) 697-5305.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 40

Conflict of interests.

Accordingly, 32 CFR Part 40 is amended as follows:

PART 40—[AMENDED]

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

Authority: E.O. 11222; Pub. L. 87-651; 3 U.S.C. 301.

2. Section 40.3 is amended by adding the following definition in alphabetical order:

§ 40.3 Definition.

* * * * *

Employment (and all variations). Except where expressly defined differently, this term is used in a broad sense to include services performed as a consultant, lawyer, agent or other kind of assistant, part-time or full-time, either for a defense contractor or a DoD Component.

* * * * *

3. Section 40.4 is amended by adding paragraph (b)(3)(iii)(B), (C) and (iv) to read as follows:

§ 40.4 Policy.

* * * * *

(b) * * *

(3) * * *

(iii) * * *

(B) This prohibition does not preclude speeches before such organizations by DoD officials if the speech is designed to express an official position in a public forum.

(C) This prohibition does not preclude volunteer efforts on behalf of charitable or nonprofit organizations by individuals who do not use their official titles in relation to solicitations and who do not solicit from individuals or entities with whom they do business in their official capacity. See DoD Directive 5410.18 and 5410.19.

(iv) *Relationship with Defense Contractor.* DoD personnel shall not use the Department's relationship with defense contractors or potential defense contractors to induce, coerce, or seek any favors or actions other than those authorized by the contract, or by law.

* * * * *

§ 40.6 [Amended]

4. In § 40.6 paragraphs (d)(2)(iii) (A), (B), and (C), change "November 7, 1986" to read "November 8, 1985."

5. Section 40.7 is amended by adding paragraphs (b)(4)(iv), (c), and (d).

§ 40.7 Digest of laws.

* * * * *

(b) * * *

(4) * * *

(iv) *Exceptions to post Government service restrictions.* (A) The restrictions of 18 U.S.C. 207 do not apply to communications made solely for the purpose of furnishing scientific or technological information in accordance with procedures established by the DoD Component concerned.

(B) The restrictions of 18 U.S.C. 207 do not apply when the Head of a DoD Component, in accordance with established procedures, certifies that a former officer or employee has outstanding scientific or technological qualifications and that the U.S. national interest would be served by that person's participation in a particular matter.

(c) *Laws particularly applicable to retired regular officers*—(1) *Claims.* (i) A retired regular officer of the Armed Forces may not, within two years of retirement, act as agent or attorney for prosecuting any claim against the Government, or assist in the prosecution of such a claim, or receive any gratuity or any share of or interest in such a claim in consideration for having assisted in the prosecution of such a claim, if such claim involves the Military Department in which service he or she holds a retired status. See 18 U.S.C. 283.

(ii) A retired Regular officer of the Armed Forces may never act as agent or attorney for prosecuting any claim against the Government, or assist in the prosecution of such a claim, or receive any gratuity or any share of or interest in such a claim in consideration for having assisted in the prosecution of such a claim if such a claim involves any subject matter with which he or she was directly connected while on active duty. See 18 U.S.C. 283.

(2) *Selling.* (i) A retired Regular officer is prohibited, at all times, from representing any person in the sale of anything to the Government through the Military Department in which service he or she holds a retired status. See 18 U.S.C. 281.

(ii) Payment may not be made from any appropriation, to an officer on a retired list of the Regular Army, the Regular Navy, the Regular Air Force, the Regular Marine Corps, the Regular Coast Guard, the National Oceanic and Atmospheric Administration, or the Public Health Service, for a period of three years after his or her name is placed on that list, who is engaged for himself, herself or others in selling, or contracting or negotiating to sell, supplies or war materials to an agency

of the Department of Defense, the Coast Guard, the National Oceanic and Atmospheric Administration, or the Public Health Service. See 37 U.S.C. 801(b) as amended, October 9, 1962.

(iii) For the purpose of this statute, "selling" means:

(A) Signing a bid, proposal, or contract,

(B) Negotiating a contract.

(C) Contacting an officer or employee of any of the foregoing departments or agencies to obtain or negotiate contracts, negotiate or discuss changes in specifications, price, cost allowances, or other terms of contract, or settle disputes concerning performance of a contract, or

(D) Any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract subsequently is negotiated by another person.

(3) *Employment with the Department of Defense.* A retired regular officer of the Armed Forces may not be appointed to a position in the civil service in the Department of Defense (including nonappropriated fund instrumentalities) within 180 days following retirement unless the following conditions set out in DoD Directive 1402.1 are met:

(i) The appointment is authorized by the Secretary of a Military Department, or designee, and, if applicable, by the Office of Personnel Management,

(ii) The minimum rate of basic pay for the position has been increased under 5 U.S.C. 5305, or

(iii) A state of national emergency exists.

(d) *Other laws applicable to DoD personnel.* Engaging in the following activities may subject present and former DoD personnel to criminal or other penalties:

(1) Aiding, abetting, counseling, commanding, including, or procuring another to commit a crime under any criminal statute (see 18 U.S.C. 201);

(2) Concealing or failing to report to proper authorities the commission of a felony under any criminal statute if such personnel knew of the actual commission of the crime (see 18 U.S.C. 4);

(3) Conspiring with one or more persons to commit a crime under any criminal statute or to defraud the United States, if any party to the conspiracy does any act to effect the object of the conspiracy (see 18 U.S.C. 371);

(4) Lobbying with appropriated funds (see 18 U.S.C. 1913);

(5) Disloyalty and striking (see 5 U.S.C. 7311, 18 U.S.C. 1918);

(6) Disclosure of classified information (see 18 U.S.C. 793 and 798, 50 U.S.C. 783), and disclosures of trade secrets and other confidential information (see 18 U.S.C. 1905);

(7) Habitual use of intoxicants to excess (see 5 U.S.C. 7352);

(8) Misuses of a Government vehicle (see 31 U.S.C. 638a(c)(2));

(9) Misuse of the mailing privilege (see 18 U.S.C. 1719);

(10) Deceit in an examination or personnel action in connection with Government employment (see 18 U.S.C. 1917);

(11) Committing fraud or making false statements in a Government matter (see 18 U.S.C. 1001);

(12) Mutilating or destroying a public record (see 18 U.S.C. 2071);

(13) Counterfeiting and forging transportation requests (see 18 U.S.C. 641);

(14) Embezzlement of Government money or property (see 18 U.S.C. 641); failing to account for public money (see 18 U.S.C. 643); private use of public money (see 18 U.S.C. 653); and embezzlement of the money or property of another person in the possession of an employee by reason of his Government employment (see 18 U.S.C. 654);

(15) Unauthorized use of documents relating to claims from or by the Government (see 18 U.S.C. 285);

(16) Certain political activities (see 5 U.S.C. 7321–7327), and 18 U.S.C. 600, 601, 602, 603, 606, and 607, which apply to civilian employees and see DoD Directive 1344.10, which applies to military personnel);

(17) Any person (including a special Government employee) who is required to register under the Foreign Agents Registration Act of 1938 (see 18 U.S.C. 219), serving the Government as an officer or employee (the section does not apply to retired regular officers who are not on regular duty, or reserves who are not on active duty or who are on active duty for training, or a special Government employee in any case in which the department Head certifies to the Attorney General that his or her employment by the United States Government is in the national interest);

(18) Soliciting contributions for gifts or giving gifts to superiors, or accepting gifts from subordinates (see 5 U.S.C. 7351, which applies only to civilian employees; regulations set out at D.2.c.(1) in this part govern military personnel);

(19) Accepting of excessive honoraria (see 2 U.S.C. 44li);

(20) Accepting, without statutory authority, any present emolument, office or title, or employment of any kind whatever, from any king, prince, or foreign state by any person holding any office or profit in or trust of the Federal Government, including all retired military personnel and regular enlisted personnel (U.S. Constitution, Art. I, Sec. 9, cl.8, exceptions to this prohibition are authorized under 37 U.S.C. 908);

(21) Union activities of military personnel (10 U.S.C. 976);

(22) Violation of merit system principles (see 5 U.S.C. 2301);

(23) Prohibited personnel practices (see 5 U.S.C. 2302);

(24) Civilian presidential appointees occupying full-time positions, appointment to which is required to be made with the advice and consent of the senate, in any calendar year earning outside income in excess of 15 percent of their Government salary (see 5 U.S.C. 210, Appendix 4);

(25) Employment of an officer of the Regular Navy or the Regular Marine Corps, other than a retired officer, by a person furnishing naval supplies or war materials to the United States (see 37 U.S.C. 801(a)).

§ 40.14 [Amended]

6. Section 40.14 is amended by italicizing the first sentence of paragraph (a), which is the heading, and lower-casing the word "Entities."

Linda M. Lawson,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

August 5, 1987.

[FR Doc. 87–18119 Filed 8–11–87; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[OW-4-FRL-3244-8]

Ocean Dumping; Final Cancellation of Site Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today cancels the designation of two ocean dumping sites which are currently designated on an interim basis. This action is being taken because there is no projected future need for these sites. These sites will be removed from the list of "Approved Interim and Final Ocean Dumping Sites."

EFFECTIVE DATE: These cancellations shall be effective September 11, 1987.

ADDRESS: Send comments to: Ms. Sally Turner, Environmental Protection Agency, Water Management Division, Marine and Estuarine Branch, Marine

Protection Section, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Ms. Salley Turner, 404/347–2126.

The file supporting these site cancellations is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street, SW., Washington, DC 20460
EPA Region IV, 345 Courtland Street, NE, Atlanta, GA 30365

SUPPLEMENTARY INFORMATION: EPA published revised Ocean Dumping Regulations and Criteria in the **Federal Register** on January 11, 1977 (42 FR 2462 et seq.). Section 228.12 contains a list of "Approved Interim and Final Ocean Dumping Sites."

This list was amended on December 9, 1980, (45 FR 80142 et seq.) to extend the interim designation of some ocean dumping sites and cancel the designation of six industrial sites and one dredged material site. At that time EPA stated its intention to identify additional ocean dumping sites for which there is no projected future need.

Two such sites have now been identified, and EPA is cancelling the interim designation of these sites based upon recommendations from the Corps of Engineers.

On Monday, June 1, 1987, EPA proposed the cancellation of these sites in the **Federal Register** (52 FR 20429). The proposed rulemaking contained information regarding the sites and the circumstances surrounding the recommendation for cancellation. These sites with their identifying coordinates are listed below:

1. Ponce de Leon Inlet, FL:
   29°06'05"N., 80°55'50"W.
   29°06'10"N., 80°55'40"W.
   29°05'34"N., 80°55'10"W.
   29°05'28"N., 80°55'20"W.
2. St. Augustine Harbor, FL:
   29°51'33"N., 81°15'24"W.
   29°51'33"N., 81°15'00"W.
   29°50'33"N., 81°15'00"W.
   29°50'33"N., 81°15'24"W.

The comment period on the proposed rulemaking closed on July 1, 1987. No comments were received on the proposed rule.

Action

The cancellation of these two sites as EPA Interim Approved Ocean Dumping Sites is being published as final rulemaking.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. 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 action will not have a significant impact on small entities. No small entities are using or, as far as EPA is aware, are planning to use these sites in the near future. Furthermore, the cancellation of these site designations will have no effect on the economy or cause any of the other effects which would result in its being classified as a "major" action. Consequently, this final rule does not necessitate the preparation of a Regulatory Flexibility Analysis or Regulatory Impact Analysis.

This final rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. et seq.

List of Subject in 40 CFR Part 228

Water pollution control.

Dated: July 31, 1987.

Lee A. DeHihns, III,

Acting Regional Administrator, Region IV.

In consideration of the foregoing, Part 228 of Title 40 is amended as set forth below.

PART 228—[AMENDED]

1.The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

§ 228.12 [Amended]

2. Section 228.12(a)(3) is amended by removing from the list of dredged material sites the following two ocean dumping sites:

St. Augustine Harbor, FL:
29°51'33"N., 81°15'24"W.
29°51'33"N., 81°15'00"W.
29°50'33"N., 81°15'00"W.
29°50'33"N., 81°15'24"W.
Ponce de Leon Inlet, FL:
29°06'05"N., 80°55'50"W.
29°06'10"N., 80°55'40"W.
29°05'34"N., 80°55'10"W.
29°05'28"N., 80°55'20"W.

[FR Doc. 87–18093 Filed 8–11–87; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 261

[SHW-FRL-3246-2]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Final Exclusion Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting final exclusions from the lists of hazardous wastes contained in 40 CFR Part 261 for certain solid wastes generated by General Electric, Shreveport, LA and Keymark Corporation, Fonda, NY. This action responds to delisting petitions received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists.

EFFECTIVE DATE: August 12, 1987.

ADDRESSES: The public docket for this final rule is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for public viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The reference number for this docket is "F–87–GEEF–FFFFF." The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424–9346, or (202) 382–3000. For technical information, contact Myles Morse, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–4788.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous waste contained at 40 CFR 261.31 and 361.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine that (1) the waste to be excluded is non-hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the wastes at levels of regulatory concern.

B. History of this Rulemaking

General Electric Company (General Electric) and Keymark Corporation (Keymark) each petitioned the Agency to exclude from hazardous waste control specific wastes they currently or previously generated. After evaluating these petitions, on November 27, 1985, EPA proposed to exclude specific wastes generated by thirteen facilities, including General Electric and Keymark (see 50 FR 48911–48967, November 27,

1985) from the lists of hazardous waste contained at 40 CFR 261.31 and 261.32. Six of these facilities were granted final exclusions in earlier notices. Five of the proposed exclusions will be addressed in future notices. This notice addresses only the delisting petitions for the General Electric Company, located in Shreveport, Louisiana and the Keymark Corporation, located in Fonda, New York.

II. Disposition of Exclusion Petitions

A. General Electric Company

1. Proposed Exclusion

General Electric petitioned the Agency to exclude its waste-water treatment sludge from EPA Hazardous Waste No. F006, based upon the absence or immobilization of the listed constituents in this waste. In the proposed rule, the Agency concluded that data submitted by General Electric substantiate their claim that the listed constituents of concern are either not present in concentrations of regulatory concern or are present in essentially immobile forms. As required by the Hazardous and Solid Waste Amendments of 1984, General Electric also provided data on other non-listed hazardous constituents from materials used in their manufacturing process which, therefore, would be expected to be present in the petitioned waste. An evaluation of these data indicated that no other hazardous constituents are present in this waste at levels of regulatory concern and that the waste does not exhibit any of the characteristics of hazardous waste. (See 50 FR 48949, November 27, 1985 and 51 FR 27063, July 29, 1986 for a more detailed description of why the Agency proposed to grant General Electric's petition.)

2. Agency Response to Public Comments

The Agency received comments from one commenter regarding the proposed rule. This commenter believes that the Agency should deny this petition since the facility did not submit groundwater monitoring data. The commenter believes that the Agency cannot evaluate adequately the potential health and environmental hazard of the waste without these data. The Agency proposed a decision on General Electric's petition on what was then considered a complete petition. At that time EPA did not, as a matter of policy, require compliance with Subpart F and submission of groundwater monitoring data as a part of the delisting demonstration. EPA as a matter of equity, therefore, has not now required General Electric to submit groundwater monitoring data. Today's final decision is based solely on the Agency's chemical and dispersion modeling evaluation of the waste itself.

The Agency's VHS model was used to predict what the concentration of constituents would be in the groundwater at a hypothetical downgradient compliance point. The VHS model considers the mobility of constituents from a specified volume of the petitioned waste. That evaluation indicated that no hazardous constituents would be present at the downgradient compliance point above levels of regulatory concern. EPA believes this evaluation is sufficient to allow a final exclusion determination to be made. The Agency agrees with the commenter, however, that groundwater monitoring data is additional useful information to aid evaluation of a delisting petition. In general, facilities petitioning for exclusion of a waste managed on-site are expected to be in compliance with the requirements of 40 CFR Part 264 or 265 and should submit, as part of their petition, four quarters of groundwater monitoring data from a monitoring system determined to be adequate under Subpart F of those regulations. As a matter of policy, however, the Agency has previously acted on several delisting petitions without groundwater monitoring data including: facilities that have previously received final decisions or received a waiver from the groundwater monitoring requirements through state agencies or EPA's Regional offices (such waivers include existing consent agreements and Subpart F waivers obtained under § 265.90(c) or § 264.90(b)). The agency will in the future publish guidance describing our policy to require submission of groundwater monitoring data.

The commenter also stated that EPA should not make the proposed exclusion final until an appropriate methodology for evaluating the potential for groundwater contamination from surface impoundments is available.

The VHS model was designed to predict the potential behavior of wastes managed in landfills. One of the primary differences between modeling the behavior of wastes in landfills and surface impoundments is the consideration of hydraulic head in impoundments. Hydraulic head tends to force leachate into the aquifer, displacing ground water, and resulting in potentially higher concentrations at the receptor well. We believe the landfill version of the VHS, being a conservative model, is a reasonable tool for the evaluation of wastes managed in impoundments. A number of conservative assumptions in the model support its application to impounded wastes. For example, the VHS landfill model assumes no attenuation, including no hydrolysis, no biodegradation, and no photolysis; each of these mechanisms may be significant in an impoundment scenario. The VHS landfill scenario also assumes the use of the EP Leachate results (or the results of the Organic Leachate Model (OLM) which is an empirical model of the Toxicity Characteristic Leaching Procedure (TCLP) and EP results); the EP assumes an acetic acid leaching media from a municipal landfill which generally will overestimate leaching potential in an aqueous impoundment, as well as a 20 to 1 dilution factor for a municipal landfill which will underestimate the dilution which is expected to occur in most impoundments and thus overestimates the leachate concentration for impoundments. We therefore believe that the VHS model is the best model currently available to evaluate data included in delisting petitions. While we are evaluating possible revisions to the VHS model for surface impoundments, the Agency will continue its current delisting process of evaluating impounded wastes using the landfill version of the VHS model.

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that General Electric's wastewater treatment sludge contains concentrations of the materials for which it was originally listed below levels of regulatory concern. For these reasons, the Agency believes that the waste is not hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to General Electric for its wastewater treatment sludge resulting from phosphatizing and painting of steel parts, drawing and enameling of aluminum wire, non-cyanide plating processes, and deaeration of transformer oil listed as EPA Hazardous Waste No. F006, generated at its Shreveport, Louisiana facility. The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment processes). The current exclusion applies only to the processes covered by the original demonstration. The facility may file a new petition if it alters its processes. The facility must treat its wastes as hazardous, however, until a new exclusion is granted.

B. Keymark Corporation

1. Proposed Exclusion

Keymark petitioned the Agency for a one-time exclusion for its wastewater treatment sludge contained in an on-site impoundment from EPA Hazardous Waste No. F019, based upon the absence or immobilization of the listed constituents in this waste. Data submitted by Keymark substantiate their claim that the listed constitutents of concern are either not present in concentrations of regulatory concern or are present in essentially immobile forms. As required by the Hazardous and Solid Waste Amendments of 1984, Keymark also provided data on other non-listed constituents from materials used in their manufacturing process, and therefore, expected to be present in the petitioned waste. An evaluation of these data indicated that no other hazardous constituents are present in this waste at levels of regulatory concern and that the waste does not exhibit any of the characteristics of hazardous waste. (See 50 *FR* 48922–48924, November 27, 1985 for a more detailed description of why the Agency proposed to grant Keymark's petition.)

2. Agency Response to Public Comments

(The same comments were received on both the General Electric and Keymark proposed grant decisions. See the Agency's Response to Public Comments for the General Electric Company also published in today's notice.)

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that Keymark's wastewater treatment sludge is not hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a one-time exclusion to Keymark Corporation for its wastewater treatment sludge resulting from the chemical conversion coating of aluminum listed as EPA Hazardous Waste No. F019 generated at its Fonda, New York facility and contained in an on-site impoundment.

III. Effective Date

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

IV. Limited Effect of Federal Exclusion

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

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, any State which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[1] To date, only one State (Georgia) has received reauthorization for their delisting program. The final exclusions granted today, therefore, are issued under the Federal program. The States, however, can still decide whether to exclude these wastes under their State (non-RCRA) program. Since a petitioner's waste may be regulated under a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

V. Regulatory Impact

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

VI. Regulatory Flexibility Act

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

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

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

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

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

Dated: August 3, 1987.

Jeffery D. Denit,

Acting Director, Office of Solid Waste.

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

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

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

Appendix IX—[Amended]

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

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
General Electric Company.	Shreveport Louisiana.	Wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations and contained in four on-site treatment ponds on August 12, 1987

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

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
Keymark Corp.	Fonda, New York.	Wastewater treatment sludges (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum and contained in an on-site impoundment on August 12, 1987. This is a one-time exclusion.

[FR Doc. 87-18314 Filed 8-11-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 261

[SHW-FRL-3246-3]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Final Exclusion Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting a final exclusion from the lists of hazardous wastes contained in 40 CFR Part 261 for certain solid wastes generated by Bommer Industries Incorporated, Landrum, SC. This action responds to a delisting petition received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists.

EFFECTIVE DATE: August 12, 1987.

ADDRESSES: The public docket for this final rule is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for public viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The reference number for this docket is "F-87-BMAN-FFFFF." The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424-9346, or (202) 382-3000. For technical information, contact Myles Morse, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M. Street SW., Washington, DC 20460, (202) 382-4788.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous waste contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine that (1) the waste to be excluded is non-hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the wastes at levels of regulatory concern.

B. History of this Rulemaking

Bommer Industries Incorporated petitioned the Agency to exclude from hazardous waste control certain waste it generated. On November 27, 1985, EPA proposed to exclude specific wastes generated by thirteen facilities, including Bommer Industries Incorporated (see 50 FR 48911-48967, November 27, 1985) from the lists of hazardous waste contained at 40 CFR 261.31 and 261.32. Five of these facilities were granted final exclusions in earlier notices. Seven of the proposed exclusions will be addressed in future notices. This notice addresses only the delisting petition for Bommer Industries Incorporated, located in Landrum, South Carolina.

II. Disposition of Exclusion Petition

A. Bommer Industries Incorporated

1. Proposed Exclusion

Bommer Industries Incorporated (Bommer) petitioned the Agency to exclude the waste contained in its two ponds from EPA Hazardous Waste No. FOO6 based on the low concentration and immobilization of the listed constituents in the waste. In the proposed rule, the Agency concluded that data submitted by Bommer substantiate their claim that the listed constituents of concern are not present at levels of regulatory concern. Furthermore, Bommer submitted data on other non-listed hazardous constituents used in the manufacturing process which would be expected to be present in their petitioned waste. An evaluation of these data indicated that no other hazardous constituents are present in these wastes at levels of regulatory concern and that the wastes do not exhibit any of the characteristics of hazardous waste. (See 50 FR 48912-48915, November 27, 1985 for a more detailed explanation of why EPA proposed to grant Bommer's petition.)

2. Agency Response to Public Comments

The Agency received comments from one commenter regarding the proposed rule. This commenter stated that Bommer had not submitted adequate ground-water monitoring data in order to demonstrate that the ponds are not contaminating the ground water.

Bommer conducted groundwater monitoring and submitted results as part of their original petition. No contamination had been detected at the time the proposal was published. Subsequent to proposal of the exclusion, Bommer submitted additional monitoring data which also show no contamination (these data are available in the public docket and were made available for public comment on April 9, 1987, see 52 FR 11513). These data were collected from one additional downgradient well installed voluntarily by Bommer in May of 1986. Four quarters of data from this well have been reported and show no signs of contamination. The installation of the additional downgradient well and the data obtained, confirm the information originally reported in the petition. Bommer has submitted ground-water monitoring data from a total of one upgradient and four downgradient monitoring wells. Bommer's monitoring system is in compliance with Subpart F requirements for ground-water monitoring. The Agency, therefore, continues to believe that the waste contained in the two evaporation ponds can be delisted.

The commenter also stated that EPA should not make the proposed exclusion final until an appropriate methodology for evaluating the potential for ground-water contamination from surface impoundments is available.

The VHS model was designed to predict the potential behavior of the wastes managed in landfills. One of the primary differences between modeling the behavior of wastes in landfills and surface impoundments is the consideration of hydraulic head in surface impoundments. Hydraulic head tends to force leachate into the aquifer, displacing groundwater, and resulting in potentially higher concentrations at the receptor well. We believe, however, that the landfill version of the VHS, being a conservative model, is a reasonable tool for the evaluation of wastes managed in impoundments. A number of conservative assumptions in the model support its application to impounded wastes. For example, the VHS landfill model assumes no attenuation, including no hydrolysis, no biodegradation, and no photolysis; each of these mechanisms

may be significant in an impoundment scenario. The VHS landfill scenario also assumes the use of the EP leachate results (or the results of the Organic Leachate Model (OLM) which is an empirical model of the Toxicity Characteristic Leaching Procedure (TCLP) and EP results); the EP assumes an acetic acid leaching media for a municipal landfill which generally will overestimate leaching potential in an aqueous impoundment, as well as a 20 to 1 dilution factor for a municipal landfill which will underestimate the dilution which is expected to occur in most impoundments, and thus overestimate the leachate concentrations for wastes from impoundments. We therefore believe the VHS is the best model currently available to evaluate data included in delisting petitions. While we are evaluating possible revisions to the VHS model for surface impoundments, the Agency will continue its current delisting process of evaluating impounded wastes using the landfill version of the VHS model.

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that Bommer's sludge contained in the two ponds are not hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Bommer Industries Incorporated's Landrum, South Carolina facility for its wastewater treatment sludge from electroplating operations listed as EPA Hazardous Waste No. FOO6. Bommer Industries Incorporated may now manage its petitioned waste as non-hazardous unless the waste exhibits any of the characteristics of hazardous waste. The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process). The current exclusion applies only to the process covered by the original demonstration. The facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new exclusion is granted.

III. Effective Date

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

IV. Limited Effect of Federal Exclusions

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

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, any States which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[1] To date, only one State (Georgia) has received authorization for their delisting program. The final exclusion granted today, therefore, is issued under the Federal program. The States, however, can still decide whether to exclude these wastes under their State (non-RCRA) programs. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), the petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

V. Regulatory Impact

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

VI. Regulatory Flexibility Act

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

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

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

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

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

Date: August 3, 1987.

Jeffery D. Denit,

Acting Director, Office of Solid Waste.

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

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

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

Appendix IX—[Amended]

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

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

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
Bommer Industries Incorporated.	Landrum, South Carolina.	Wastewater treatment sludges (EPA Hazardous Waste No. FOO6) generated from their electroplating operations and contained in evaporation ponds #1 and #2 on August 12, 1987.

[FR Doc. 87-18315 Filed 8-11-87; 8:45 am]
BILLING CODE 6560-SO-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-323; RM-5290]

Radio Broadcasting Services; Haughton, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This ducument allots FM Channel 279A to Haughton, Louisiana as that community's first FM channel in response to a petition filed by Haughton Broadcasting Company. With this action, this proceeding is terminated.

DATES: Effective September 21, 1987; The window period for filing applications will open on September 22, 1987, and close on October 22, 1987.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-323, adopted July 9, 1987, and released August 4, 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 Services, (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]

12. Section 73.202(b), the Table of FM Allotments is amended by adding the entry of Channel 279A at Haughton, Louisiana.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-18250 Filed 8-11-87; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-378; RM-5415]

Television Broadcasting Services; Wiggins, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots UHF Television Channel 56+ to Wiggins, Mississippi, in response to a petition filed by South Mississippi Broadcasting Company, Inc. This allotment could provide a second commercial television service for Wiggins. Channel 56 is allotted to Wiggins with a site restriction 10.6 miles west. The site restriction will prevent a conflict with noncommercial educational television Channel *56, Panama City, Florida. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 21, 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. 86-378, adopted July 9, 1987, and released August 4, 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

Television broadcasting.

PART 73—[AMENDED]

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

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

§ 73.606 [Amended]

2. In § 73.606(b), the Table of TV Allotments under Mississippi, is amended by adding UHF Channel 56+ to Wiggins.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-18252 Filed 8-11-87; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-451; RM-5461]

Radio Broadcasting Services; Taft, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Tareeca J. McKee, allocates Channel 262A to Taft, Oklahoma, as the community's first local FM service. Channel 262A can be allocated to Taft in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.1 kilometers (3.2 miles) southwest to avoid a short-spacing to Station KWGS, Channel 208C1, Tulsa, Oklahoma, and to Station KTCS-FM, Channel 260, Fort Smith, Arkansas. With this action, this proceeding is terminated.

DATES: Effective September 21, 1987; the window period for filing applications will open on September 22, 1987, and close on October 22, 1987.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-451, adopted July 9, 1987, and released August 4, 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.

PART 73—[AMENDED]

Radio broadcasting

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Oklahoma is amended by adding Taft, Channel 262A.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-18251 Filed 8-11-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-224; RM-5256]

Radio Broadcasting Services; Green Valley, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 246A to Green Valley, Arizona, as that community's second local FM service, in response to a petition filed by Crystal Sets, Inc. With this action, this proceeding is terminated.

DATES: Effective September 21, 1987; The window period for filing applications on Channel 246A at Green Valley, Arizona, will open on September 22, 1987, and close on October 22, 1987.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530, regarding the allocation. For information related to the application process contact Audio Services Division, FM Branch, (202) 632-6908.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-224, adopted July 16, 1987, and released August 6, 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 by adding Channel 246A to the entry for Green Valley, Arizona.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-18322 Filed 8-11-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-114; RM-5078, 5218]

Radio Broadcasting Services; Clarkesville and Cleveland, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 275A to Clarkesville, Georgia, at the request of Radio Habersham, Inc., and allots Channel 270A to Cleveland, Georgia, in lieu of Channel 275A, in response to a petition filed by Terry W. Barnhardt. The allotments could provide for a first FM service at each community.

DATES: Effective September 24, 1987; the window period for filing applications on Channel 275A at Clarksville, Georgia, and Channel 270A at Cleveland, Georgia, will open on September 25, 1987, and close on October 26, 1987 With this action this proceeding is terminated.

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. 86-114, adopted July 13, 1987, and released August 6, 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 for Georgia by adding Clarkesville, Channel 275A, and Cleveland, Channel 270A.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-18323 Filed 8-11-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-314; MR-5030 and RM-5586]

Radio Broadcasting Services; Brewer, Old Town and Skowhegan, ME

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 262B to Brewer, Maine, and modifies the license of Station WGUY-FM to specify Channel 262B in lieu of Channel 265A, in response to a petition filed by Stone Communications, Inc. In order to accommodate the channel upgrade at Brewer, it is necessary to substitute Channel 300A for Channel 261A at Skowhegan, Maine. Charles J. Saltzman is the applicant for Channel 261A at Skowhegan, and filed comments in support of the *Notice*. In response to a counterproposal filed by The Penobscot Indian Nation in this proceeding, we shall allocate FM Channel 297B to Old Town, Maine, as that community's first broadcast service. There is a site restriction 5.5 kilometers (3.4 miles) north of Old Town for Channel 297B. Canadian concurrence has been obtained for the allocation of the above channels since the communities are within 320 kilometers of the common U.S.-Canadian border. Additionally, the proposals for Brewer and Old Town, Maine must conform with the technical requirements of § 73.1030(c) (1)-(5) of the Rules regarding protection to the Commission's monitoring station at Belfast, Maine. With this action, this proceeding is terminated.

DATE: Effective September 24, 1987; The window period for filing applications for FM Channel 297B at Old Town, Maine, will open on September 25, 1987, and close on October 26, 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. 86–314, adopted July 9, 1987, and released August 6, 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 Maine is amended by removing Channel 265A and adding FM Channel 262B at Brewer, by removing FM Channel 261A and adding FM Channel 300A at Skowhegan, and by adding Channel 297B at Old Town.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87–18324 Filed 8–11–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–475; RM–5572]

Radio Broadcasting Services; Deming and Las Cruces, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes noncommercial educational Channel 218A for unoccupied and unapplied for Channel 209A at Las Cruces, NM, and substitutes noncommercial educational Channel 219A for unoccupied and unapplied for Channel 218A at Deming, NM, at the request of the Associated Students of New Mexico State University Publications and Communications Board. Both channels can be allocated in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. Mexican concurrence has been received since Las Cruces and Deming are located within 320 Kilometers (199 miles) of the U.S.-Mexican border. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 21, 1987.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–475, adopted July 13, 1987, and released August 6, 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.

§ 73.504 [Amended]

2. Section 73.504(a), the Table of Noncommercial Educational FM Allotments for Deming, New Mexico is amended by adding Channel 219A and removing Channel 218A, and for Las Cruces, New Mexico, by adding Channel 218A and removing Channel 209A.

Mark N. Lipp,

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

[FR Doc. 87–18325 Filed 8–11–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87–44; RM–5602]

Radio Broadcasting Services; Healdton, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Thomas Broadcasting, Inc., substitutes Channel 289C2 for Channel 288A at Healdton, Oklahoma, and modifies the license of Station KTYX(FM) to specify operation on the higher powered channel. Channel 289C2 can be allocated to Healdton in compliance with the Commission's minimum distance separation requirements with a site restriction of 21.3 kilometers (13.2 miles) southwest. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 22, 1987.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–44, adopted July 21, 1987, and released August 6, 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 for Healdton, Oklahoma, is amended by removing Channel 288A and adding Channel 289C2.

Mark N. Lipp,

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

[FR Doc. 87–18327 Filed 8–11–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–452; RM–5448]

Radio Broadcasting Services; Sherman, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 281A to Sherman, Texas, as that community's second FM service, at the request of KTXO, Inc. A site restriction of 7.6 kilometers (4.7 miles) northeast of Sherman is required. With this action, this proceeding is terminated.

DATES: Effective September 21, 1987; The window period for filing applications will open on September 22, 1987, and close on October 22, 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. 86–452, adopted July 16, 1987, and released August 6, 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, the Table of FM Allotments is amended by adding Channel 281A under Sherman, Texas.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–18328 Filed 8–11–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 85–223; RM–5034, RM–5165]

Radio Broadcasting Services; Barre and Montpelier, VT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 284C2 for Channel 244A at Montpelier, Vermont, and modifies the license of Station WNCS(FM) to specify operation on the new frequency, at the request of Montpelier Broadcasting, Inc. A site restriction of 9.2 kilometers (5.7 miles) southwest of the city is required. Concurrence by the Canadian government has been obtained. This action further dismisses the proposal to substitute Channel 284C2 for Channel 296A at Barre,Vermont (RM–5034) at the request of Radio Barre, Inc. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 24, 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. 85–223, adopted July 13, 1987, and released August 6, 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 Vermont, by removing Channel 244A and adding 284C2 to Montpelier.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–18329 Filed 8–11–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–474; RM–5438]

Radio Broadcasting Services; Marietta, Ohio and Ravenswood, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 271B1 for Channel 271A at Marietta, Ohio and modifies the license of Station WEYQ–FM to specify operation on the new frequency, at the request of Employee Owned Broadcasting Corp. In addition this document substitutes Channel 291A for 272A at Ravenswood, West Virginia and modifies the construction permit for Station WRAU(FM) to specify operation on the new frequency in order to accomplish the Marietta substitution. The substitution could provide Marietta with its first wide area FM station. A site restriction of 18.1 kilometers (11.2 miles) southwest of Marietta is required. Canadian government has concurred. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 21, 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. 86–474, adopted July 21, 1987, and released August 6, 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 Ohio, by removing Channel 271A and adding 271B1 for Marietta and under West Virginia, by removing Channel 291A and adding 272A for Ravenswood.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–18326 Filed 8–11–87; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–245; RM–5224]

Television Broadcasting Services; Stuart, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots UHF television Channel 59 to Stuart, Florida, as a first television service at the request of The Steel Partnership, Inc. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 21, 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. 86–245, adopted July 15, 1987, and released

August 6, 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

Television broadcasting.

PART 73—[AMENDED]

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments is amended for Florida, by adding Channel 59 to Stuart.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87–18330 Filed 8–11–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 90 and 94

Private Land Mobile Radio Services and Private Operational-Fixed Microwave Service; Editorial Amendments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is editorially amending various sections of Parts 90 and 94 of its rules to correct typographical errors and omissions of publication to restore intended meanings to the affected sections.

EFFECTIVE DATE: August 12, 1987.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, telephone (202) 634–2443.

SUPPLEMENTARY INFORMATION: Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and § 0.231(d) of the Commission's Rules. Provisions of 5 U.S.C. 553 concerning public notice, administrative procedure, and effective date do not apply because the amendments are either editorial or are corrections to typographical errors.

List of Subjects

47 CFR Part 90

Private land mobile radio services.

47 CFR Part 94

Private operational-fixed microwave service.

Rule Changes

Parts 90 and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

The authority citation for Part 90 continues to read as follows:

Authority: Sections 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, unless otherwise noted.

§ 90.7 [Amended]

1. In § 90.7, the definition for *Geographic center* is amended by changing "paragraph (h) of § 90.365" to "§ 90.635".

§ 90.17 [Amended]

2. In § 90.17, the Local Government Radio Service Frequency Table in paragraph (b) is amended by changing the class of station(s) on frequencies 37.10, 37.18 and 37.26 MHz from "Fixed, base or mobile" to "Base or mobile".

§ 90.19 [Amended]

3. In § 90.19, the Police Radio Service Frequency Table in paragraph (d) is amended by changing "38.18" to "39.18", and "952 and above" to "928 and above" and moving that entry to follow "851–866".

4. In § 90.25, paragraph (c)(19) is revised to read as follows:

§ 90.25 Forestry-conservation radio service.

(c) * * *

(19) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices. In the 2483.5–2500 MHz band, no applications for new stations or modification to existing stations to increase the number of transmitters will be accepted. Existing licensees as of July 25, 1985, or on a subsequent date following as a result of submitting an application for license on or before July 25, 1985, are grandfathered, and their operation is co-primary with the Radiodetermination Satellite Service.

* * * * *

§ 90.53 [Amended]

5. In § 90.53, paragraph (b)(29)(iii) is amended by changing "§ 90.365(h)" to read "Table 1 of § 90.635".

§ 90.63 [Amended]

6. In § 90.63, paragraph (d)(19) is amended by changing the words "2483.5–250 MHz" to "2483.5–2500 MHz".

7. In § 90.73, the Special Industrial Radio Service Frequency Table in paragraph (c) is corrected by removing the first of the double-entered frequency "33.12" MHz. Additionally, paragraph (d)(23) is revised as follows:

§ 90.73 Special industrial radio service.

* * * * *

(d) * * *

(23) Available only on a shared basis with stations in other services, and subject to no protection from interference due to the operation of industrial, scientific, or medical (ISM) devices. In the 2483.5–2500 MHz band, no applications for new stations or modification to existing stations to increase the number of transmitters will be accepted. Existing licensees as of July 25, 1985, or on a subsequent date following as a result of submitting an application for license on or before July 25, 1985, are grandfathered, and their operation is co-primary with the Radiodetermination Satellite Service.

* * * * *

§ 90.75 [Amended]

8. In § 90.75, the present second paragraph (c)(24) is revised and redesignated as (c)(43). The Business Radio Service Frequency Table in paragraph (b) is amended by removing limitation 26 from frequency 464.500 MHz, and changing limitation 24 to limitation 43 for the 2450–2500 MHz frequency band. Paragraph (c)(15) is revised, and in the Table of Airports included in paragraph (c)(25)(viii), the latitude in the reference coordinates for the Chicago-Wheeling-Palwaukee Airport (PWK) in the Chicago, IL-Northwest, IN region is corrected from "42°64′08″N" to "42°06′48″N".

§ 90.75 Business radio service.

* * * * *

(c) * * *

(15) Except as noted in paragraph (c)(25), operation on this frequency is limited to a maximum output power of 20 watts.

* * * * *

(43) Frequencies in this band are available on a shared basis with stations in other services, and subject to no protection from interference caused

by the operation of industrial, scientific, or medical (ISM) devices. In the 2483.5–2500 MHz band, no applications will be accepted for new stations. Stations in the 2483.5–2500 MHz band that were licensed as a result of applications filed on or before July 25, 1985, are grandfathered, and their operation is co-primary with the Radiodetermination Satellite Service.

* * * * *

§ 90.79 [Amended]

9. In § 90.79, the Manufacturers Radio Service Frequency Table in paragraph (c) is amended by changing "75–60" to "75.60".

§ 90.91 [Amended]

10. In § 90.91, the Railroad Radio Service Frequency Table in paragraph (b) is amended by changing "76.60" to "72.60", "169.172" to "169 to 172", "406.413" to "406 to 413", and "450.470" to "450 to 470".

§ 90.103 [Amended]

11. In § 90.103, the first and second sentences of paragraph (c)(9) are combined and revised to read "This band is allocated to the Radiolocation Service on a secondary basis to other fixed or mobile services and must accept any harmful interference that may be experienced from such services or from the industrial, scientific, and medical (ISM) equipment operating in accordance with Part 18 of this chapter.

§ 90.129 [Amended]

12. In § 90.129, paragraph (o) introductory text is amended by changing "90.81(d)(13)" to "90.81(d)(14)".

§ 90.207 [Amended]

13. In § 90.207, paragraph (k) is amended by changing the designators "F3Y" to "F1E or G1E", and "F9Y" to "F1D, F2D, G1D, or G2D".

§ 90.261 [Amended]

14. In § 90.261, the list of frequencies in paragraph (b) is amended by changing the frequencies "457.050, 457.100" the first time they appear to "453.050, 453.100".

§ 90.266 [Amended]

15. In § 90.266, paragraph (g) is amended by changing "§ 90.81(d)(13)" to "§ 90.81(d)(14)" and "§ 90.129(n)" to "§ 90.129(o)".

16. In § 90.267, the table in paragraph (b) titled Offset Channels Available in Services Indicated is amended to include the frequencies 453.8125, 453.8375, 453.8625, and 453.8875 MHz, to change frequency "465.0825" to "465.0875", and to remove footnote 1 from frequencies 461.0125, 465.8875 and 466.0125 as follows:

§ 90.267 Assignment and use of 12.5 kHz frequency offsets.

* * * * *

(b) * * *

Offset Channels Available in Services Indicated

* * * * *

453.8125	PF, PH, PL, PO, PP
453.8375	PF, PH, PL, PO, PP
453.8625	PF, PH, PL, PO, PP
453.8875	PF, PH, PL, PO, PP

* * * * *

§ 90.303 [Amended]

17. In § 90.303, the table in paragraph (a) titled Frequency Availability for Land Mobile Use is amended by changing the latitude of New York/N.E.N.J. from "40°45'16" " to "40°45'06" ".

§ 90.477 [Amended]

18. In § 90.477, the table of urbanized areas in paragraph (d)(3) is amended by changing the superscripts of all latitude and longitude entries from the incorrect form xxx'xx'xx" to the proper form xxx°xx'xx". The latitude of New York, N.Y. northeastern N.J. is corrected by changing "40°45'08" " to "40°45'06" ".

19. To correct omissions, the combined frequency list in § 90.555(b) is amended with the following changes: adding IF as an eligible service for the frequencies 31.48, 31.52, 31.64, 31.72, 31.76, 43.02, 43.28, 43.36, 43.40, 43.52, 452.100, 452.200, 452.225, 452.250, 452.275, 452.350, 452.400, and 452.450 MHz; adding IS as an eligible service for the frequencies 153.335, 153.350, 153.365, 153.380 and 153.395 MHz; adding frequencies 462.325 and 462.350 MHz, in numerical order, to the list with IX as the only eligible service; adding the frequency band "1427 to 1435" MHz, in numerical order, to the list with eligibility available to all services except RS and limited to fixed, base or mobile use as shown below; removing the frequency 161.2; and changing the service for 456.450 from IF to IT.

§ 90.555 Combined frequency listing.

* * * * *

(b) * * *

Frequency	Services	Special limitations
* * * * *		
462.325	IX	
462.350	IX	
* * * * *		
1427–1435	All Svcs. exc. RS	Fixed, base or mobile.
* * * * *		

20. In § 90.613, the last sentence of the introductory text is revised, both the Table of 806–821/851–866 MHz Channel Designations and the Table of 896–901/935–940 MHz Channel Designations are amended to change mobile frequencies to base frequencies, and revise the entries set out below as follows:

§ 90.613 Frequencies available.

* * * Only the upper half of the frequency pair is listed in the table.

TABLE OF 806–821/851–866 MHz CHANNEL DESIGNATIONS

Channel No.	Base frequency (MHz)
1	851.0125
41	852.0125
81	853.0125
121	854.0125
161	855.0125
201	856.0125
241	857.0125
281	858.0125
321	859.0125
361	860.0125
396	8875
401	861.0125
441	862.0125
481	863.0125
521	864.0125
561	865.0125

TABLE OF 896–901/935–940 MHz CHANNEL DESIGNATIONS

Channel No.	Base frequency (MHz)
1	935.0125
80	936.0125
160	937.0125
240	938.0125
320	939.0125

§ 90.617 [Amended]

21. Section 90.617 is amended by changing "160 km" to "140 km (87.0 miles)" in paragraph (a) and "160 km (100 miles)" to "140 km (87.0 miles)" in paragraphs (b), (c), and (d).

§ 90.635 [Amended]

22. In § 90.635, the longitude in Table 1 of New York-northeastern New Jersey is amended by changing "73° 50'39"" to "73° 59'39"".

23. The following paragraphs are removed and reserved:

90.17(d)(2)	90.71(d)(1)
90.19(f)(2)	90.79(e)(2)
90.21(d)(2)	90.75(d)(1)
90.23(d)(1)	90.79(e)(2)
90.25(d)(2)	90.81(e)(1)
90.53(c)(2)	90.89(d)(1)
90.63(e)(2)	90.91(d)(1)
90.65(d)(2)	90.93(d)(1)
90.67(d)(2)	90.95(e)(1)
90.69(d)(2)	

§ 90.271 [Amended]

24. In § 90.271, paragraph (d) is removed.

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

The authority citation for Part 94 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, unless otherwise noted.

25. In § 94.15, paragraph (b)(3) is revised to read as follows:

§ 94.15 Policy governing the assignment of frequencies.

* * * * *

(b) * * *

(3) In either case, the application must contain the names of the licensees and the call signs of the stations that were considered in conducting the engineering analysis. Further, applicants and licensees will be expected to cooperate promptly and fully in the exchange of technical information necessary to performing frequency engineering analysis and, in the event of technical differences, cooperate in resolving these differences. Engineering analyses prepared pursuant to this section shall include the FCC ID number of the transmitter and the make and model numbers for all antennas the applicant proposes to use.

* * * * *

§ 94.25 [Amended]

26. In § 94.25, paragraph (k) is removed.

§ 94.27 [Amended]

28. In § 94.27, paragraph (a) introductory text is amended by changing the date "July 1976" to "August 1985", and paragraph (a)(3) is amended by changing the word "licensee" to "license".

29. In § 94.31, paragraph (a) is revised to read as follows:

§ 94.31 Supplemental information to be submitted with application.

* * * * *

(a) Any statements or showings required by § 94.15 or § 94.63;

* * * * *

29. In § 94.45, the last sentence of paragraph (b) introductory text is revised to read as follows and (b) (1) and (2) are removed:

§ 94.45 Changes in authorized station requiring modification.

* * * * *

(b) * * * The notice shall be sent to the Federal Communications Commission, Gettysburg, PA 17325 and a copy shall be maintained with the license of each station until a new license is issued.

§ 94.61 [Amended]

30. In § 94.61(b), the last sentence in footnote 22 for the list of frequency bands is removed.

31. In § 94.63, paragraph (e)(3) is revised to read as follows:

§ 94.63 Interference protection criteria for operational fixed stations.

* * * * *

(e) * * *

(3) Any decrease in antenna height or transmitter output power.

* * * * *

§ 94.65 [Amended]

32. In § 94.65, the listing of paired frequencies in paragraph (g)(3) is amended by changing the second column entry for "6670.0" from "68.30" to "6830.0". Also, the introductory text of paragraph (j)(5) is amended by changing "20 HMz" to "20 MHz".

§ 94.67 [Amended]

33. In § 94.67, the table of frequency bands is amended by changing "2180 to 2220" to "2180 to 2200", and "10,500 to 10,680" to "10,550 to 10,680".

Also, in the amendment published March 9, 1987, on page 7146, Amendment 67 which began "The table in paragraph (a) of § 94.67 . . ." should have read "The table in § 94.67 . . .", and remove the "(a) * * *" which follows the section heading.

[FR Doc. 87-17815 Filed 8-11-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 509

[Docket No. 83-17; Notice 3]

OMB Control Number Display for Information Collection Requirements

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

ACTION: Technical amendment.

SUMMARY: The Office of Management and Budget (OMB) has promulgated a regulation requiring all agencies to display the OMB control number assigned to all regulations that contain information collection requirements, by publishing those control numbers in the Federal Register. In compliance with this regulation, NHTSA established a new Part 509 in Title 49 of the Code of Federal Regulations. This Part was last updated in 1985. This amendment updates Part 509 to reflect the changes that have occurred since 1985. This update is intended to ensure that the public will be informed of the current OMB control numbers assigned to NHTSA regulations.

EFFECTIVE DATE: August 12, 1987.

FOR FURTHER INFORMATION CONTACT: Stephen Kratzke, Office of Chief Counsel, NHTSA, Room 5219, 400 Seventh Street SW., Washington, DC 20590 (202-366-2992).

SUPPLEMENTARY INFORMATION: OMB is authorized by the Paperwork Reduction Act of 1980 (44 U.S.C. 3516) to promulgate rules, regulations, or procedures necessary to carry out the purposes of the Paperwork Reduction Act. Pursuant to this authority, OMB promulgated 5 CFR Part 1320, *Controlling Paperwork Burdens of the Public*. 5 CFR 1320.7(f)(2) requires all agencies to display the OMB control number for regulations that contain information collection requirements, by publishing those control number in the Federal Register.

In response to this regulation, NHTSA published a new Part 509 on November 8, 1983 (48 FR 51310). Part 509 sets forth all the OMB control numbers that have been assigned to NHTSA's regulations. The agency updated the regulation on October 1, 1985 (50 FR 40023). Since that date, there have been many changes and additions to the OMB control numbers assigned to NHTSA's regulations. This technical amendment updates Part 509 to reflect those changes, so that the public will be accurately informed of the

OMB control numbers currently assigned to NHTSA's regulations.

Publication of this technical amendment updating Part 509 simply satisfies the requirements of 5 CFR Part 1320. It imposes no obligations or responsibilities on any party, nor does it alter any existing obligations. Accordingly, NHTSA finds for good cause that notice and opportunity for comment are unnecessary, and this technical amendment is effective on the date this notice is published.

NHTSA has analyzed the impacts of this action and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. This update does not affect any existing duties or obligations under NHTSA regulations, and will have no cost impacts. Therefore, a full regulatory evaluation has not been prepared.

For the same reasons, NHTSA has determined that this update will not significantly affect the human environment, after considerations in accordance with the National Environmental Policy Act. Likewise, I hereby certify that this update will not have a significant impact on a substantial number of small entities, after making the evaluations required by the Regulatory Flexibility Act.

List of Subjects in 49 CFR Part 509

Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 509 is amended as follows:

PART 509—[AMENDED]

1. The authority citation for Part 509 continues to read as follows:

Authority: 44 U.S.C. 3507.

2. Section 509.2 is revised to read as follows:

§ 509.2 Display.

49 CFR Part or section containing information collection requirement	OMB control No.
Part 512	2127-0025
Part 537	2127-0019
Part 542	2127-0539
Part 543	2127-0542
Part 544	2127-0547
Section 551.45	2127-0040
Part 552	2127-0046
Part 556	2127-0045
Part 557	2127-0039
Part 566	2127-0043
Consolidated owner's manual requirements for vehicles and equipment §§ 571.126, 571.205, 571.208, 571.210, and 575.105)	2127-0541
Consolidated labeling requirements for Tires and Rims (Parts 569 and 574, §§ 571.109, 571.110, 571.117, 571.119, and 571.120)	2127-0503
Consolidated labeling requirements for Vehicles excluding VIN (Part 567, §§ 571.105, 571.205, and 571.209)	2127-0512
Consolidated VIN and Theft Prevention Standard Labeling Requirements (Part 541, 565, and 567 and § 571.115)	2127-0510
section 571.106	2127-0052
section 571.116	2127-0521
section 571.205	2127-0038
section 571.213	2127-0511
section 571.217	2127-0505
section 571.218	2127-0518
Part 573	2127-0004
Part 574	2127-0050
Part 575 Excluding UTQGS	2127-0049
section 575.104 (UTQGS)	2127-0519
Part 576	2127-0042
Part 580	2127-0047
Part 585	2127-0535

Issued on August 7, 1987.

Diane K. Steed,

Administator.

[FR Doc. 87-18349 Filed 8-11-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 25

Revision of the General Provisions for Subpart E; Fees and Charges to Include Criteria for Establishing and Collecting Entrance Fees on National Wildlife Refuges

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) is amending Subpart E of 50 CFR Part 25 by setting forth criteria to provide for the designation of Entrance Fee Areas, the establishment and collection of entrance fees on designated national wildlife refuges (NWR), and that failure to pay the established entrance fees shall constitute a violation of existing refuge rules and regulations. The purpose of this rulemaking is to establish regulations concerning entrance fee collection as authorized by the Emergency Wetlands Resources Act of 1986 (the Act). Designation of refuges that will charge a fee and the amount of that fee will be accomplished at the Regional level pursuant to posting and public notification as provided by existing regulations.

EFFECTIVE DATE: August 12, 1987.

FOR FURTHER INFORMATION CONTACT: James F. Gillett, Division of Refuges, U.S. Fish and Wildlife Service, Room 2343, 18th and C Streets, NW., Washington, DC 20240; Telephone (202) 343-4311.

SUPPLEMENTARY INFORMATION: The Emergency Wetlands Resources Act (16 U.S.C. 3901 *et seq.*) authorizes the Secretary of the Interior (Secretary) to charge entrance fees at designated NWRs (except in Alaska) provided that: (1) The level of visitation for recreational purposes is high enough to justify the collection of fees for admission permits for economic reasons, (2) there is a practical mechanism in existence for implementing and operating a system of collecting fees for admission permits and (3) imposition of a fee for admission permits is not likely to result in undue economic hardship for a significant number of visitors to the refuge. These criteria will be applied with regard to the local area within which a particular refuge is located. The collection of entrance fees will shift a portion of the economic burden for use of these refuges from the general public to the direct user, consistent with the intent of the Act.

In determining the ability of certain refuges to implement and operate a fee collection system for admission permits, practical considerations include the Service's capability to construct and staff entrance facilities and to control access. Considering the criteria for establishing fees as stipulated in section 201 of the Act, refuges that have levels of visitation for recreational purposes high enough to justify the collection of fees for admission permits will not charge more than $3 per person or $7.50 per noncommercial vehicle at designated refuges. A valid single visit permit, Golden Eagle, Age, or Access Passport or a valid Federal Duck Stamp will allow the holder and those accompanying the holder in a noncommercial vehicle entry onto a designated refuse without further charge. In other than a noncommercial vehicle the spouse, children or parents of/and accompanying a holder are permitted entry without further charge. Local notification, as provided in 50 CFR 25.31, will be given regarding seasons during which entrance fees will be charged and the rates for daily entrance.

On May 11, 1987, at 52 FR 17613, the Service published a proposed rule to revise 50 CFR Part 25 (General Provisions for Fees and Charges) to include criteria for establishing and collecting entrance fees on NWRs. These criteria will have to be considered before any refuge may start collecting entrance fees for recreational purposes. Once these criteria are met and the public is notified, a refuge may collect entrance fees. National wildlife refuges currently being considered as sites for the collection of entrance fees are: Aransas (TX), Bosque Del Apache (NM), Chincoteague (VA), Desota (IA), Ding Darling (FL), Dungeness (WA), Edwin B. Forsythe (Brigantine Division) (NJ), Hobe Sound (FL), Kilauea Point (HI),

Loxahatchee (FL), Montezuma (NY), Muscatatuck (IN), Ottawa (OH), Parker River (MA), National Bison Range (MT), Seney (MI), Sequoyah (OK), Sherburne (MN) and St. Marks (FL).

Department of the Interior policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. The majority of comments received on the proposed rule did not address the criteria themselves but the amounts proposed to be charged on the refuges listed above. These comments are being considered by each Regional Office and will be incorporated into the final selection of refuges and the fees to be collected. General issues on entrance fee collection on refuges are addressed in the following section.

Responses to Comments Received

Issue: Guidelines for visitation thresholds, the economic basis for these thresholds, discussion of voluntary fee collection and guidelines for establishing a monitoring program should have been included in the rule.

Response: The geography, demography and economy of each Region and refuge constitute a tremendous variety of factors to take into consideration when applying the criteria set forth in the Act to determine which refuges may collect entrance fees. It is not the intent of this rulemaking to discuss in detail the many factors and procedures involved in determining which refuges may collect fees, but to establish as regulations the basic criteria for this determination as set forth in the Act. Thes factors and procedures will be discussed on a refuge and Regional level as the selection process continues.

Issue: Too much revenue will be going back into the Migratory Bird Fund (70%) and not enough will be going back into the collecting refuge (30%).

Response: These percentages were mandated by law (Emergency Wetland Resources Act of 1986). To amend those percentages would take an act of Congress.

Issue: No entrance fees should ever be collected on NWRs.

Response: The Congress realized that with an ever increasing use of NWRs by the public and fewer tax dollars available for wetland protection and refuge operations and maintenance, revenue needed to be generated from other sources. The purpose of the proposed rule was therefore to comply with the intent of the Act by notifying the public that entrance fees will be collected on selected NWRs that have met the criteria set forth in the Act and that these criteria will be included in 50 CFR Part 25 by way of this final rulemaking.

Issue: Imposition of an entrance fee would be an economic hardship for the elderly on a fixed income, for children or groups of children, or for low income families.

Response: The Golden Age Passport, one form of entrance permit, is FREE and available to anyone 62 years of age or older. Also, anyone accompanying a holder of this passport in a noncommercial vehicle can enter FREE of charge. This passport must be picked up in person and is available at any NWR collceting entrance fees, any Service Regional Office or any National Park. Children under the age of 16 can also enter FREE. For those in low income families, the purchase of a $10 Federal Duck Stamp, one type of entrance permit, should not present an undue economic burden. For those who like to use a refuge every day of the year, a $10 Federal Duck Stamp would allow those people to enjoy the refuge for only .02 cents a day. Again, with this type of permit, anyone accompanying the holder of it in a noncommercial vehicle can get in FREE. Federal Duck Stamps can be purchased by ANYONE at post offices or at the refuge collecting entrance fees.

Issue: Many commenters feel that national wildlife refuges are established for recreational enjoyment.

Response: Few national wildlife refuges are established for the purpose of public recreation. Public recreation on a refuge is a permitted activity only if it is compatible with the primary purpose of the refuge such as the protection of migratory bird habitat. With increased pressure to use refuges for public recreation, managment of that recreation, such as maintaining auto-tour routes, boardwalks or enforcement staffing, can impact the revenue needed to manage the primary purposes of those refuges. To balance the revenue needed to manage a refuge for habitat and recreation, the collection of entrance fees is a practical means of generating revenue and shifting the burden for use of refuges from the general public to the direct user.

Conformance With Statutory and Regulatory Authorities

The Emergency Wetlands Resources Act of 1986, authorizes the Secretary to charge fees for admission permits at designated units of the National Wildlife Refuge System provided certain criteria are met. The purpose of this rulemaking is to set forth the criteria for designating refuges as entrance fee areas, to establish a process through which actual entrance fee areas will be identified, and to provide for penalties for evasion of the entrance fee regulations.

Economic Effect

Executive Order 12291 requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more, or major increase in costs or prices for consumers, individual industries, government agencies or geographic regions. The purpose of the Act is to provide additional revenues for the conservation of wetland resources of the Nation and for the operation and maintenance of refuges. The Determination of Effects has been completed and analyzes the economic impacts. Based on this determination, the Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Environmental Considerations

This rulemaking, consistent with the intent of the Act, will set forth the criteria used to establish entrance fees which will generate revenue for the conservation of wetland resources of the Nation and for the operation and maintenance of refuges, thereby adding to the protection and management of the environment. No NEPA determination is required because "[t]he issuance of special regulations for public use of FWS-managed land, which maintain essentially the permitted level of use and do not continue a level of use that has resulted in adverse environmental effects," is a categorical exclusion (516 DM 6, App. 1).

Because this rule constitutes an interpretative rule under 5 U.S.C. 553(d)(2), merely creating a process and framework within which individual entrance fee decisions can be made based upon local area comments and conditions, the rule will be effective upon publication.

Nancy A. Marx, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary author of this final rulemaking document.

List of Subjects in 50 CFR Part 25

Administrative practice and procedure, Concessions, National Wildlife Refuge System, Safety, Wildlife refuges.

Accordingly, Part 25 of Chapter I of Title 50 of the *Code of Federal Regulations* is amended as set forth below:

PART 25—[AMENDED]

1. The authority citation for Part 25 is revised to read as follows:

Authority: 16 U.S.C. 460k, 664, 668dd, 715i, and 3901 *et seq.*

2. In Subpart E § 25.51 is revised and §§ 25.52 through 25.57 are added as follows. As revised, Subpart E reads as set forth below:

Subpart E—Fees and Charges

Sec.
25.51 General provisions.
25.52 Designation.
25.53 Establishment of single visit entrance fees.
25.54 Posting and public notification.
25.55 Refuge admission permits.
25.56 Enforcement.
25.57 Exceptions and exemptions.

Subpart E—Fees and Charges

§ 25.51 General provisions.

Reasonable charges and fees may be established for public recreational use of and, except in Alaska, entrance onto national wildlife refuges. Regulations regarding recreational use fees are contained in 36 CFR Part 71. Regulations regarding entrance fees are contained in this Subpart E.

§ 25.52 Designation.

To be designated as an "Entrance Fee Area", a unit of the National Wildlife Refuge System must be found to demonstrate that:

(a) The level of visitation for recreational purposes is high enough to justify the collection of fees for admission permits for economic reasons;

(b) There is a practical mechanism in existence for implementing and operating a system of collecting fees for admission permits; and

(c) Imposition of a fee for admission permits is not likely to result in undue economic hardship for a significant number of visitors to the unit.

§ 25.53 Establishment of single visit entrance fees.

Entrance fees established for single visit permits at a designated Entrance Fee Area shall consider the following criteria with regard to the local area within which the refuge is located:

(a) The direct and indirect cost to the Government.

(b) The benefits to the permit holder.

(c) The public policy or interest served.

(d) The comparable fees charged by non-Federal public agencies.

(e) The economic and administrative feasibility of fee collection.

§ 25.54 Posting and public notification.

The public shall be notified that an entrance fee is charged through refuge publications and posted designation signs in accordance with § 25.31 of this part.

§ 25.55 Refuge admission permits.

(a) Unless otherwise provided, persons entering an Entrance Fee Area shall obtain and be in possession of a valid admission permit.

(b) The following five types of permits allowing entrance onto an Entrance Fee Area will be available for issue or purchase at such area and, except for refuge-specific permits, at Fish and Wildlife Service Regional and Washington, DC Offices, and at other locations as may be designated.

(1) Single visit permit with a charge not to exceed $3 per person or $7.50 per noncommercial vehicle (single visit can be defined as 1–15 days, dependent upon a determination of the period of time reasonably and ordinarily necessary for such a visit at a particular refuge unit).

(2) Golden Eagle Passport.

(3) Golden Age Passport.

(4) Golden Access Passport.

(5) Federal Migratory Bird Hunting and Conservation (Duck) Stamp. To be valid, the Duck Stamp must be current and bear the signature of the holder on the front.

§ 25.56 Enforcement.

Permits issued or used for entrance onto Entrance Fee Areas are nontransferable. Failure to pay the entrance fee, to display upon request of an authorized official a valid permit, or to comply with other entrance fee provisions, rules or regulations, will be subject to the penalties prescribed in 50 CFR 28.31.

§ 25.57 Exceptions and exemptions.

At Entrance Fee Areas:

(a) Special admission permits for uses, such as group activities, may be issued.

(b) No entrance fee shall be charged for persons under 16 years of age.

(c) No entrance fee shall be charged for travel by private noncommercial vehicle over any road or highway established as part of the National Federal Aid System (defined in 23 U.S.C. 101), which is commonly used by the public as a means of travel between two places which are outside the Entrance Fee Area.

(d) No entrance fee shall be charged for travel by private noncommercial vehicle over any road or highway to any land in which such person has a property interest if such land is within any Entrance Fee Area.

(e) Persons accompanying the holder of a valid single visit permit, Federal Duck Stamp or Golden Eagle, Age, or Access Passport in a single, private, noncommercial vehicle shall be entitled to general entrance.

(f) Where entry is by any means other than single, private, noncommercial vehicle, the spouse, children, or parents accompanying the holder of a valid single visit permit, Federal Duck Stamp or Golden Eagle, Age, or Access Passport shall be entitled to general entrance.

Date: July 22, 1987.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-18227 Filed 8-11-87; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 70845-7085]

Ocean Salmon Fisheries Off the Coast of Washington, Oregon, and California

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

ACTION: Notice of inseason adjustments and closure; request for comments.

SUMMARY: NOAA announces (1) the inseason adjustment of the chinook quota for the commercial fishery from Carroll Island, Washington, to the U.S.-Canada border, and (2) closure of the commercial fishery in the exclusive economic zone (EEZ) in the same area. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with representatives of the Pacific Fishery Management Council, Oregon Department of Fish and Wildlife (ODFW), and Washington Department of Fisheries (WDF), that this adjustment and closure meet the criteria for inseason adjustment to management measures, and that they are necessary to conform with the established schedule for allocation of salmon to commercial and recreational fisheries

and to ensure conservation of chinook salmon.

DATES: This inseason adjustment and closure of the EEZ from Carroll Island, Washington, to the U.S.-Canada border to commercial salmon fishing is effective at 24 hours local time, August 7, 1987. Comments on this closure will be received until August 22, 1987.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206–526–6150.

SUPPLEMENTARY INFORMATION: The ocean salmon fisheries are managed under a framework fishery management plan (FMP); management measures appear at 50 CFR Part 661. An amendment to the plan (52 FR 4116, February 10, 1987) authorizes inseason adjustments to management measures if the adjustments are consistent with fisherey regimes established by the U.S.-Canada Pacific Salmon Commission, ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the ocean allocation scheme in the framework amendment. In addition, all inseason adjustments must be based on consideration of the following factors: Predicted sizes of salmon runs; harvest quotas and hooking mortality limits for the area and total allowable impact limitations if applicable; amount of recreational, commercial, and treaty Indian catch for each species in the area to date; amount of recreational, commercial, and treaty Indian fishing effort in the area to date; estimated average daily catch per fisherman, predicted fishing effort for the area to the end of the scheduled season; and other factors as appropriate.

In its preseason notice of 1987 management measures (52 FR 17264, May 6, 1987), NOAA announced that the commercial fishery from the U.S.-Canada border to Cape Falcon would be partitioned into three seasons. Each season is managed by both a chinook and a coho quota. In addition, the non-Indian ocean commercial and recreational fisheries north of Cape Falcon are managed not to exceed either (1) an overall 106,000 chinook quota, or (2) impacts on Skagit River natural coho stocks equivalent to the overall preseason quota north of Cape Falcon of 342,100 coho salmon.

The commercial fishery for all salmon species except coho north of Cape Falcon began on May 1 and closed on May 18, when it was projected that a chinook quota of 42,400 fish had been met. Actual landings in the May commercial fishery totaled 39,800 chinook.

An all-species season from the Queets River to Cape Falcon was established in the preseason notice as July 25 through July 27, and from July 31 through the earlier of the attainment of either 121,200 coho salmon or 15,000 chinook salmon. The subarea chinook quota subsequently was increased to 17,600 fish because of the under-quota harvest in the May fishery (52 FR 24296, June 30, 1987). In addition, the initial three-day opening was shortened to two days, July 25 and July 26; the closed period was changed from July 28–30 to July 27–29; the conservation zone at the mouth of the Columbia River was extended to 10 nautical miles for this fishery; and the area 3 to 10 miles offshore from North Head to the Queets River was closed to slow the anticipated high catch of chinook salmon (52 FR 28321, July 29, 1987). Based on the best available information, landings in the two-day all-species season are projected to total 22,100 chinook, 4,500 chinook more than the subarea quota for this fishery.

An all-species season from Carroll Island, Washington, to the U.S.-Canada border, to target on pink salmon, was established in the preseason notice to begin the earlier of August 15 or attainment of an 8–to–1 coho catch ratio in a test fishery, through the earlier of attainment of either a 4,000 chinook subarea quota or a 20,000 coho subarea quota. The test fishery is expected to harvest up to 200 chinook salmon, which are counted toward attainment of the commercial chinook quota north of Cape Falcon, Oregon.

NOAA has determined, after consideration of the factors specified for inseason adjustments, that an adjustment of the commercial chinook quota from Carroll Island to the U.S.-Canada border to account for the over-quota harvest in the July commercial all-species season and closure of the commercial fishery in the same subarea meet the criteria for inseason adjustments and are required to maintain the non-Indian commercial/recreational allocation scheme in the framework FMP. Accordingly, this notice (1) adjusts the chinook quota for the all-species season from Carroll Island to the U.S.-Canada border from 4,000 chinook to zero, and (2) closes the commercial fishery in the EEZ of the same area, effective 2400 hours local time, August 7, 1987. This notice does not apply to treaty Indian fisheries or to other fisheries which may be operating in this or other areas.

The additional 500 chinook taken in excess of the quota for the July commercial fishery, and any chinook taken in the August test fishery, will be applied against the overall 106,000 chinook quota for the area north of Cape Falcon in determining when the recreational fishery north of Cape Falcon must be closed.

The Regional Director consulted with the Chairman of the Pacific Fishery Management Council and the representatives of WDF and ODFW regarding an adjustment of the commercial chinook quota for the area from Carroll Island to the U.S.-Canada border and closure of the commercial fishery in that area. The WDF representative confirmed that Washington will manage the commercial fishery in State waters adjacent to this subarea of the EEZ in accordance with this notice.

Other Matters

This action is authorized by 50 CFR 661.23 and in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

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

Dated: August 7, 1987.

James W. Brennan,

Acting General Counsel.

[FR Doc. 87–18355 Filed 8–7–87; 3:03 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 155
Wednesday, August 12, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

Eligibility of District of Columbia Government Employees for Superior Qualifications Appointments

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Office of Personnel Management (OMP) is proposing to revise the regulations under which agencies may appoint candidates who possess superior qualifications to positions at grades GS–11 and above at rates above the base of the grade. The regulations would permit agencies to appoint employees of the Government of the District of Columbia at advanced rates under the same conditions as other candidates. Currently, the regulations prohibit appointment of DC Government employees at advanced rates unless the appointees have a break in service of a least 90 days following their DC Government employment.

DATE: Comments must be received on or before October 13, 1987.

ADDRESS: Written comments may be sent 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 E. Spencer, (202) 632–6817.

SUPPLEMENTARY INFORMATION: Section 5333 of title 5, United States Code, requires that most new appointments to positions under the General Schedule be made at the base of the grade. However, under 5 U.S.C. 5333(a), new appointments to positions at grades GS–11 and above may be made at rates above the base of the grade when the higher salrary rates are justified by appointee's superior qualifications and existing pay or by a special need of the Government for the appointees' services. Appointments made under this provision are commonly called superior qualifications appointments.

The statutory authority is intended to afford a recruiting incentive to attract superior candidates into the Federal service. Once employees enter the Federal service, their pay upon movement from one position to another is governed by 5 U.S.C. 5334, under which pay is based on salary previously earned in *Federal* employment. To carry out the statutory intent, OPM's regulations state that superior qualifications appointments must be either new appointments or reappointments of individuals who have had a break in service of at least 90 days since their last Federal or DC Government employment.

Until implementation of the Home Rule Act, the General Schedule pay system covered positions in the District of Columbia as well as the Federal Government. Salaries earned with the DC Government were considered in accordance with 5 U.S.C. 5534, when setting pay for DC Government employees who moved into the Federal service. Therefore, the regulatory prohibition against giving superior qualifications appointments to current DC Government employees merely applied the same conditions to the DC employees as to Federal employees covered by the same pay system.

Under the Home Rule Act, however, the DC Government established a separate personnel system. DC Government employees are no longer covered by the laws and regulations governing pay in the Federal service, and their D.C. salaries may no longer be considered as a basis for setting pay under 5 U.S.C. 5534. The situation of DC employees recruited for Federal jobs is now comparable to that of State and local government employees, who must usually enter Federal service at the base of the appropriate General Schedule grade.

Federal agencies may, however, use the superior qualifications appointment authority to match the salaries of State and local employees who possess unusually high or unique qualifications for positions at GS–11 and above and whose pay exceeds the base salary rate. The same authority should be available to assist Federal agencies in recruiting top quality DC Government emplolyees.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain appointees to positions in Federal agencies.

List of Subjects in 5 CFR Part 531

Administrative practice and procedures, Government employees, Personnel Management Office, wages.

Office of Personnel Management.

James E. Colvard,

Deputy Director.

Accordingly, OPM proposes to amend 5 CFR Part 531 as follows:

PART 531—[AMENDED]

1. The authority citation for Part 531 is revised to read as follows, and the authority citations following any subparts or sections are removed:

Authority: 5 U.S.C. 5115, 5338, and Chapter 54; Section 531.203 issued under 5 U.S.C. 5333 and 5334; Section 531.204 issued under 5 U.S.C. 5334 and 5402; Section 531.205 issued under 5 U.S.C. 5305 and 5402, E.O. 11721, as amended; Section 531.305 issued under 5 U.S.C. 5333, E.O. 11721, as amended; Subpart D issued under 5 U.S.C. 5301, 5335, and 5338, E.O. 11721, as amended; Subpart E issued under 5 U.S.C. 5336 and 5338, E.O. 11721, as ameded.

§ 531.203 [Amended]

2. In § 531.203, the first sentence of paragraph (b)(2) is amended to remove the words "or employment with the Government of the District of Columbia."

[FR Doc. 87–18304 Filed 8–11–87; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 286

[INS Number: 1028-87]

Immigration User Fee

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to add a new 8 CFR Part 286 to reflect certain provisions of the Department of Justice Appropriation Act, 1987, concerning the collection and remittance of the Immigration User Fee (IUF). This action provides the necessary guidance to administer the IUF provisions.

DATE: Written comments must be received by October 13, 1987.

ADDRESS: Please submit written comments, in triplicate, to Director, Policy Directives and Instructions, Immigration and Naturalization Service, Room 2011, 425 I Street NW., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Charles S. Thomason, Jr., Systems Accountant, Finance Branch, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633-4705.

SUPPLEMENTARY INFORMATION: Section 101(b) subsection 205 of the Department of Justice Appropriation Act, 1987 (the Act, Pub. L. 99-591) establishes the collection, payment, and remittance of a specific user fee (fee) for the immigration inspection or preinspection of passengers (with certain exceptions) arriving in the United States (U.S.) aboard commercial aircraft or commercial vessels. Prior to the enactment of this legislation, the Immigration and Naturalization Service (INS) had no general legal authority to collect a fee for the inspection or preinspection of passengers arriving in or departing from the U.S. In addition to establishing the fee, the Act sets forth certain limitations or conditions concerning collection of the fee, and authorizes the promulgation of such rules and regulations as many be necessary to carry out the provisions of the new law.

A Notice of Statutory Provision was published on November 17, 1986, at 51 FR 41547, for informational purposes.

An issue has arisen regarding an apparent conflict between section 286 of the Act and 8 U.S.C. 1353b regarding carrier liability for overtime payment to INS inspectors. It appears that except for inspectional services provided to scheduled airline flights pursuant to section 286(g), the master, owner, agent, or consignee of any vessel or conveyance arriving in the United States from a foreign port may remain liable for overtime charges pursuant to 8 U.S.C. 1353b. We have requested a legal opinion from the Department of Justice regarding this issue. Until a response is received, the INS will not bill for overtime charges under 8 U.S.C. 1353b. However, should a decision be made that such billing is required, billing for overtime charges will resume.

In compliance with 5 U.S.C. 605b, the Commissioner of INS certifies that the rule would not have a significant economic impact on a substantial number of small entities. This rule would not be a major rule within the meaning of section 1(b) of E.O. 12291. This rule contains information collection requirements under the Paperwork Reduction Act which will be submitted to the Office of Management and Budget.

List of Subjects in 8 CFR Part 286

Aircraft, Immigration, Reporting and recordkeeping requirements, Vessels.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

The following new Part 286 would be added to read as follows:

PART 286—IMMIGRATION USER FEE

Sec.

Authority: 8 U.S.C. 1103 and 1356; Pub. L. 99-591.

§ 286.1 Definitions.

"Commercial aircraft" means any civilian aircraft being used to transport persons or property for compensation or hire.

Commercial vessel" means any civilian vessel being used to transport persons or property for compensation or hire.

"Originated" means, with regard to a journey, the initial point of departure in an individual's itinerary, e.g. an air/sea journey which includes a flight from Miami to an exempt location, then a cruise from the exempt location to a non-exempt location, a return cruise to that or any other exempt location, and then a return flight to Miami, would have originated in the United States (U.S.).

"Port of entry" means a port or place designated by the Commissioner of Immigration and Naturalization (INS) at which an alien may apply for admission into the United States. This includes Guam and the U.S. Virgin Islands.

§ 286.2 Fee for arrival of passengers aboard commercial aircraft or commercial vessels.

As required by section 286(b) of the Immigration and Nationality Act, as amended, the Attorney General shall charge and collect a $5.00 user fee (fee) per individual for the immigration inspection of each passenger (with certain exceptions) aboard a commercial aircraft or commercial vessel, arriving at a port of entry in the U.S., or for the preinspection of a passenger in a place outside of the U.S. prior to such arrival.

§ 286.3 Exceptions.

The fee set forth in § 286.2 shall not be assessed for the following categories of arriving passengers:

(a) Persons whose journey originates in the following exempt locations: Canada, Mexico, a territory or possession of the U.S., or any adjacent island. The U.S. territories and possessions include American Samoa, Guam, and Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands. The adjacent islands include all of the islands in the Caribbean Sea, the Bahamas, Bermuda, St. Pierre, Miguelon, and the Turks and Caicos Islands (all other locations in the world are non-exempt);

(b) Persons directly connected with the operation, navigation, or business of the aircraft or vessel including working crew, deadheading crew, FAA inspectors, sky marshals, and airline or vessel employees on official business;

(c) Diplomats, except for U.S. diplomats who can show that their names appear on the accreditation listing maintained by the U.S. Department of State. In lieu of such listing an individual diplomat may present appropriate proof of diplomatic status to include possession of a diplomatic passport or visa (A-1 and 2, G-1 thru 4), or diplomatic identification card issued by a foreign government;

(d) Persons departing and returning to the U.S. without having touched a nonexempt location (persons departing and returning to the U.S. whose itinerary

includes a non-exempt location are subject to the fee);

(e) Persons arriving as passengers on any aircraft or vessel used exclusively in the governmental service of the U.S. or a foreign government, including any agency or political subdivision thereof, so long as the aircraft or vessel is not carrying persons or merchandise for commercial purposes. Passengers on commercial aircraft or commercial vessels under contract to the U.S. Department of Defense (DOD) are exempted if they have been precleared abroad under a joint DOD/INS military inspection program;

(f) Persons arriving on an aircraft or vessel due to an emergency of forced landing when the original destination of the aircraft or vessel was a non-exempt location; and

(g) Persons transiting the U.S. and not processed by INS. This does not include transit without visa (TWOV) passengers.

§ 286.4 Liability for payment of fee.

The fee specified in § 286.2 shall be collected under the following circumstances:

(a) When through tickets or travel documents are issued indicating travel to the U.S. which originates in a non-exempt location;

(b) When through tickets or travel documents are issued indicating travel to, or round trip from, the U.S. and the air only, sea only, or air/sea combination itinerary includes travel to or from a non-exempt location;

(c) When through tickets or travel documents are issued in an exempt location indicating an arrival in the U.S. following a stopover in a non-exempt location; or

(d) When passengers arrive in the U.S. in transit from a non-exempt location and are processed by INS. This includes TWOV passengers.

§ 286.5 Fee collection.

Persons who issue tickets or travel documents on or after December 1, 1986, are responsible for the collection of the fee at the time the ticket or travel document is issued from all passengers transported into the U.S. for whom the fee applies. The ticket or travel document shall be marked to indicate that the required fee has been collected from the passenger. If the ticket or travel document is not so marked and was issued in a foreign country, the fee shall be collected and remitted by the departing carrier upon departure of the passenger from the U.S. If collected at time of departure from the U.S., the departing carrier shall issue a receipt to the passenger. U.S. and foreign-based tour wholesalers who contract for passenger space and issue non-carrier tickets will collect and remit the fee in the same manner as the carrier.

§ 286.6 Provision of immigration inspection and preinspection services.

The immigration services required to be provided to passengers upon arrival in the U.S. on scheduled airline flights shall be provided at no cost (other than the fee to commerical aircraft passengers) at:

(a) Immigration serviced ports or entry; and

(b) Places located outside of the U.S. at which an immigration officer is stationed for the purpose of providing such immigration services.

§ 286.7 Payment and statement procedures.

(a) Payment should be made to the Immigration User Fee Account, Department of the Treasury, via Treasury Financial Communications System (TFCS), using Agency Location Code (ALC) 15 12 0003 no later than 31 days after the close of the calendar quarter in which the fees are collected. Late payments will be subject to interest and penalty charges as provided for in the Debt Collection Act of 1982 (Pub. L. 97–365).

(b) If the issuing carrier has not collected the required fee from passengers, the departing carrier shall collect the fee and remit it as provided in paragraph (a) of this section.

(c) Concurrent with TFCS transmission, each person making such payment shall send a hard copy statement to INS, Office of the Comptroller, Room 6307, 425 I Street NW., Washington, DC 20536 showing:

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

(2) Taxpayer identification number of the party remitting payment;

(3) Calendar quarter covered by the payment;

(4) Number of tickets or travel documents issued without collection of the fee; and

(5) Amounts collected and remitted.

(d) If unable to use TFCS, payment (with the above information) may be made by check or money order payable in U.S. dollars to the Comptroller, INS, at the address shown in paragraph (c) of this section. Refunds for unused transportation should be netted against the next subsequent payment.

(e) Yearly, each airline, vessel company, and tour wholesaler remitting such fees shall submit a certified assurance statement from their independent public accountant to the Comptroller, INS, at the address shown in paragraph (c) of this section attesting to the degree of compliance with the law and to the accuracy of remittances of fees collected. This statement would present any material exceptions found during the examination. Certification statements are due within ninety (90) days after the close of each remitter's fiscal year.

(f) The Attorney General reserves the right to conduct an independent audit of any airline, vessel company, or tour wholesaler not providing certification pursuant to paragraph (e) of this section. Further, the Attorney General reserves the right to conduct an independent audit of any airline, vessel company, or tour wholesaler making such payments to insure compliance with the law and the accuracy of the remittances of fees collected. In order to insure compliance, the Commissioner of INS may issue a subpoena on Form I–138 requiring the production of records, evidence, and witnesses for use in the enforcement of this paragraph.

§ 286.8 Tour wholesalers.

Carriers contracting with a U.S. or foreign-based tour wholesaler are responsible for notifying the Comptroller, INS, in writing, at the address shown in § 286.7(c) of all flights or voyages contracted, the number of spaces contracted for, and the name, address and taxpayer identification number of the tour wholesaler within 31 days after the close of the calendar quarter in which such a flight or voyage occurred.

§ 286.9 Maintenance of records.

Each airline, vessel company, and tour wholesaler affected by this rule shall maintain all such documentation necessary for INS or its representative(s) to verify the accuracy of fees collected and remitted and to otherwise determine compliance under the law. Such documentation shall be maintained for a period of 2 years from the date of fee collection. Affected companies shall timely advise the Comptroller, INS, in writing, at the address shown in § 286.7(c) of the name, address, and telephone number of a responsible officer who shall be able to verify any records required to be maintained under this section. The Comproller, INS, shall also be promptly notified of any changes in the identifying information submitted.

§ 286.10 Penalties.

Failure of any carrier to comply with the provisions of section 286 of the Immigration and Nationality Act and 8

CFR Part 286 shall subject it to one or more of the following:

(a) Termination of all existing agreements under the provisions of section 238 of the Immigration and Nationality Act; and/or

(b) Suspension of en route inspections.

§ 286.11 Disposition of excess receipts.

At the end of each two year adjustment period, all money remaining in the Immigration User Fee Account shall be transferred to the general fund of the Treasury of the United States.

Dated: July 21, 1987.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 87-18165 Filed 8-11-87; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1 and 2

[Docket No. 87-111]

Animal Welfare; Definition of Terms and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension and reopening of comment period for proposed rule.

SUMMARY: We published a document entitled "Animal Welfare: Definition of Terms and Regulations" in the Federal Register on May 22, 1987, extending by 30 days the public comment period for two proposed rules. So that we may consider comments received after the comment period closed on July 1, 1987, we are extending and reopening the comment period from July 1, 1987, until 15 days after publication of this notice. This action will also enable other interested persons to submit comments for our consideration.

DATE: Consideration will be given only to comments postmarked or received on or before August 27, 1987.

ADDRESS: Send written comments to Dr. R.L. Crawford, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, APHIS, USDA, Room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Numbers 84-010 and 84-027. Comments received may be inspected at Room 756 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. R.L. Crawford, Senior Staff Veterinarian, Animal Care Staff, VS, APHIS, USDA, Room 756, Federal Building, Hyattsville, MD 20782, 301-436-8383.

SUPPLEMENTARY INFORMATION:

On March 31, 1987, we published in the **Federal Register** [52 FR 10292-10322, Docket Numbers 84-010 and 84-027] two proposals to amend the animal welfare regulations in 9 CFR Parts 1 and 2. Those proposals would, respectively, amend the section defining terms used in the animal welfare regulations and revise those regulations to comply with the amendments to the Animal Welfare Act contained in Pub. L. 99-198, enacted in December 1985.

The notice of extension of comment period we published on May 22, 1987, in the **Federal Register** [52 FR 19359, Docket No. 87-068] provided for submission of written comments until July 1, 1987. So that we may consider comments received after that date, we are extending and reopening the public comment period until 15 days after publication of this notice. During this period, other interested persons may also submit their comments for our consideration.

Done in Washington, DC, this 7th day of August 1987.

B.G. Johnson,

Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87-18407 Filed 8-11-87; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

12 CFR Part 1101

Description of Office, Procedures, Public Information

AGENCY: Federal Financial Institutions Examination Council (Council).

ACTION: Proposed rule.

SUMMARY: This proposed regulation implements recent amendments to the Freedom of Information Act (FOIA). The amendments concern Exemption 7 of the FOIA (relating to law enforcement records) and the provisions of the FOIA concerning fees and fee waivers. The proposed regulation, and the Council's FOIA regulations in general, affect public disclosure of information by the Council. This proposed regulation also updates the Council's address.

DATE: Comments must be received on or before September 25, 1987.

ADDRESS: Send comments to Robert J. Lawrence, Executive Secretary, Federal Financial Institutions Examination Council, 1776 G Street, Suite 701, Washington, DC, 20006.

FOR FURTHER INFORMATION CONTACT: Robert M. Fenner, General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, DC, 20456, telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION:

Background and General Information

The Freedom of Information Reform Act of 1986 (Pub. L. 99-570) (FOIRA) amended the FOIA (5 U.S.C. 552) by modifying Exemption 7 and by supplying new provisions relating to charging and waiving fees. FOIRA required that Federal agencies issue regulations, pursuant to notice and public comment, specifying a schedule of fees and procedures for determining when fees should be waived or reduced. The fee schedule must conform to guidelines issued by the Office of Management and Budget (OMB).

FOIRA stated that agencies should promulgate regulations by April 25, 1987, (the 180th day after its enactment). Because of the date of publication of OMB guidelines (March 27, 1987), the Council's August 1987, meeting was the earliest that a proposed regulation could be promulgated. A final rule will be issued after the expiration of the 30-day comment period on the proposed regulation. Fees, fee waivers, and reductions of fees processed by the Council on or after (the date of this proposed rule), will be made pursuant to the current § 1101.4(b)(5) of the Council's Regulations or this proposed regulation, whichever is more beneficial to the requester.

The change to Exemption 7 of the FOIA is incorporated into the Regulations (*see* proposed § 1101.4(b)(1)(vii) of the Council's Regulations). Exemption 7 exempts from disclosure certain records or information compiled for law enforcement purposes. The amended version of Exemption 7 adds language to allow for exemption based on a reasonable expectation of harm from disclosure. The amended Exemption 7 also adds explanatory language describing a confidential source. Lastly, the change provides for exemption if release of the information "would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law." It is anticipated that Exemption 7 would be used by the Council only rarely, if at all, in processing FOIA requests.

The basic change made by the FOIRA to the fee provisions is the establishment of five classes of FOIA requesters: (1) Commercial; (2) educational institutions; (3) noncommercial scientific institutions; (4) representatives of the news media; and (5) all others. Commercial requesters will be charged for the direct costs of reviews, search and duplication of records. Educational institutions, noncommercial scientific institutions and representatives of the news media will be charged fees for direct costs of duplication with the first 100 pages provided free of charge. All other requesters will be charged fees for direct costs of search and duplication, with two hours of search time and 100 pages of duplications provided free of charge. Prior to the FOIRA, requesters were not classified and charges were made in all cases for search and duplication.

Also, as previously indicated, the FOIRA amended the FOIA with respect to waiver or reduction of fees. Under FOIRA, documents are to be furnished without a fee or with a reduced fee if "disclosure of the information is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." Before the amendments, the waiver or reduction of fees occurred when an agency determined that such waiver or reduction was in the "public interest because furnishing the information can be considered as primarily benefitting the general public."

The Council's proposed regulation is largely self-explanatory. The regulation contains the basic requirements of the FOIRA amendments and also reflects OMB's guidelines. Readers desiring further information are referred to the proposed and final guidelines issued by OMB (*see* 52 FR 1982, 10012, January 16, 1987, and March 27, 1987) for a full explanation of all sections, except § 1101.4(b)(ii)(5)(H) (waiver and/or reduction of fees). While the numbering system and titles of some subsections in the FFIEC's proposed regulation differ from the OMB guidelines, the substance of the rule is generally the same. Proposed § 1101.4(b)(ii)(5)(H) is based upon guidelines issued by the Department of Justice. The Department of Justice guidelines were not published in the **Federal Register**, but are available upon request from the Council at the address listed above.

Regulatory Procedures

Regulatory Flexibility Act

The Council has determined and certifies that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed regulations do not place burdens on requesters of information under the FOIA. Accordingly, the Council has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The proposed regulation does not contain any collection requirements. It does not impose burdens on requesters of information under the FOIA.

List of Subjects in 12 CFR Part 1101

FOIA exemptions, Criminal investigations, Schedule of fees, Waivers or reductions of fees.

By the Federal Financial Institutions Examination Council on August 4, 1987.

Robert J. Lawrence,

Executive Secretary, Federal Financial Institutions, Examination Council.

August 6, 1987.

Accordingly, the Council proposes to amend its regulations as follows:

1. The authority citation for Part 1101 is revised to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 3307.

§ 1101.3 [Amended]

2. Section 1101.3(e) is revised to read:

* * * * *

(e) *Council address.* Council offices are located at 1776 G Street, NW., Suite 701, Washington, D.C., 20006.

§ 1101.4 [Amended]

3. Section 1101.4(b)(1)(vii) is revised to read:

* * * * *

(b) * * *

(1) * * *

(vii) Records or information compiled for law enforcement purposes, including records relating to a proceeding by a financial institutions regulatory agency for the issuance of a cease and desist order, or order of suspension or removal, or assessment of a civil money penalty and the granting, withholding, or revocation of any approval, permission, or authority, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings; (B) would deprive a person of a right to a fair trial or an impartial adjudication; (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy; (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source; (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or (F) could reasonably be expected to endanger the life of physical safety of any individual.

4. Section 1101.4(b)(5) is revised to read:

* * * * *

(b) * * *

(5) *Fees for document search, review, and duplication; waiver and reduction of fees—*

(i) *Definitions.*

(A) *Direct costs* means those expenditures which the Council actually incurs in searching for, duplicating, and reviewing documents to respond to a FOIA request.

(B) *Search* means all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Searches may be done manually or by computer using existing programming.

(C) *Duplication* means the process of making a copy of a document necessary to respond to a FOIA request.

(D) *Review* means the process of examining documents located in response to a request that is for a commercial use (*see* §1101.4(b)(5)(i)(E)) to determine whether any portion of any document located is permitted to be withheld and processing such documents for disclosure.

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

(F) *Educational institution* means a preschool, an elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institute of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(G) *Noncommercial scientific institution* means an institution that is not operated on a "commercial" basis as that term is referenced in

§ 1101.4(b)(5)(i)(E), and which is operated solely for the purposes of conducting scientific research, the results of which are not intended to promote any particularly product or industry.

(H) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public.

(ii) *Fees to be charged.* The Council will charge fees that recoup the full allowable direct costs it incurs. The Council may contract with the private sector to locate, reproduce, and/or disseminate records. Provided however, that the Council has ensured that the ultimate cost to the requester is no greater than it would be if the Council performed these tasks. Fees are subject to change as costs change. In no case will the Council contract out responsibilities which the FOIA provides that it alone may discharge, such as determining the applicability of an exemption, or determining whether to waive or reduce fees.

(A) *Manual searches and review.* The Council will charge fees at the following rates for manual searches for and review of records:

(*1*) If search/review is done by clerical staff, the hourly rate for GS–7, step 5, plus 16 percent of the rate to cover benefits;

(*2*) If search/review is done by professional staff, the hourly rate for GS–13, step 5, plus 16 percent of the rate to cover benefits.

(B) *Computer searches.* The Council will charge fees at the hourly rate for GS–13, step 5, plus 16 percent of the rate to cover benefits, plus the hourly cost of operating the computer for computer searches for records.

(C) *Duplication of records.*

(*1*) The per-page fees for paper copy reproduction document is $.25;

(*2*) The fee for documents generated by computer is the hourly rate for the computer operator (at GS 7, step 5 plus 16 percent for benefits if clerical staff and GS 13, step 5 plus 16 percent for benefits if professional staff) plus the cost of materials [computer paper, tapes, labels, etc].

(*3*) If any other method of duplication is used, the Council will charge the actual direct cost of duplicating the documents.

(D) If search, duplication and/or review is provided by personnel of member agencies of the Council, fees will reflect their actual hourly rates plus 16 percent for benefits.

(E) *Fees to exceed $25.* If the Council estimates that duplication and/or search fees are likely to exceed $25, it will notify the requester of the estimated amount of fees, unless the requester has indicated in advance his/her willingness to pay fees as high as those anticipated. In the case of such notification by the Council, the requester will then have the opportunity to confer with Council personnel with the object of reformulating the request to meet his/her needs at a lower cost.

(F) *Other services.* Complying with requests for special services is entirely at the discretion of the Council. The Council will recover the full costs of providing such services to the extent it elects to provide them.

(G) *Restriction on assessing fees.* The Council will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself.

(H) *Waiving or reducing fees.* The Council shall waive or reduce fees under this section whenever disclosure of information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(*1*) The Council will make a determination of whether the public interest requirement above is met based on the following factors:

(*i*) The subject of the request: Whether the subject of the requested records concerns the operations or activities of the government;

(*ii*) The informative value of the information to be disclosed: Whether the disclosure is likely to contribute to an understanding of government operations or activities;

(*iii*) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested information will contribute to public understanding;

(*iv*) The significance of the contribution to the public understanding: Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities.

(*2*) If the public interest requirement is met, the Council will make a determination on the commercial interest requirement based upon the following factors:

(*i*) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and if so

(*ii*) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large in comparison with the public interest in disclosure; that disclosure is primarily in the commercial interest of the requester.

(*3*) If the required public interest exists and the requester's commercial interest is not primary in comparison to it, the Council will waive or reduce fees.

(iii) *Categories of requesters.*

(A) *Commercial use requesters.* The Council will assess fees for commercial use requesters which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduction of documents.

(B) *Requesters who are representatives of the news media, educational and noncommercial scientific institution requesters.* The Council shall provide documents to requesters in these categories for the cost of reproduction alone, excluding fees for the first 100 pages.

(C) *All other requesters.* The Council shall charge requesters who do not fit into any of the categories above fees which recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without a fee.

(D) All requesters must specifically describe records sought.

(iv) *Interest on unpaid fees.* The Council may begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the bill was sent. Interest will be at the rate prescribed in Section 3717 of Title 31 U.S.C. and will accrue from the date of the billing.

(v) *Fees for unsuccessful search and review.* The Council may assess fees for time spent searching and reviewing, even if it fails to locate the records or if records located are determined to be exempt from disclosure.

(vi) *Aggregating requests.* A requester(s) may not file multiple requests each seeking portions of a document or documents, solely in order to avoid payment of fees. If this is done, the Council may aggregate any such requests and charge accordingly. In no case will the Council aggregate multiple requests on unrelated subjects from the same requester.

(vii) *Advance payment of fees.* The Council will not require a requester to

make an assurance of payment or an advance payment unless:

(A) The Council estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250. The Council will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up the full estimated charges in the case of requesters with no history of payment; or

(B) A requester has previously failed to pay a fee charged in a timely fashion. The Council may require the requester to pay the full amount owed plus any applicable interest as provided in subsection 1101.4(b)(5)(iv) or demonstrate that he/she has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the Council begins to process a new request or a pending request from that requester.

(C) When the Council acts under § 1101.4(b)(5)(vii) (A) or (B), the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits) will begin only after the Council has received the fee payments described.

[FR Doc. 87-18205 Filed 8-11-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202, 203, 206, 112, and 218

43 CFR Parts 3480

Coal Product Valuation; Reopening of Public Comment Period

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule; Reopening of public comment period.

SUMMARY: The Minerals Management Service (MMS) is reopening the public comment period on its proposal to amend the product valuation regulations for coal. MMS is requesting additional public comment on specific issues.

DATES: MMS must receive comments by 4:00 p.m. M.S.T. on or before October 13, 1987.

ADDRESS: Requests for the materials mentioned herein and written comments should be mailed to: Minerals Management Service, Royalty Management Program, Rules and Procedures Branch, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 628, Denver, Colorado 80225, Attention: Dennis C. Whitcomb.

FOR FURTHER INFORMATION CONTACT: Dennis Whitcomb, Chief, Rules and Procedures Branch, telephone (303) 231-3432, (FTS) 326-3432.

SUPPLEMENTARY INFORMATION: On January 15, 1987, MMS issued a notice of proposed rulemaking to amend the product valuation regulations for coal (52 FR 1840). The original public comment period was 90 days. MMS subsequently reopened the comment period on July 9, 1987, for 14, days. (52 FR 25887). During the second comment period, MMS received some significant comments from principal interested parties raising issues which merit further consideration and response from the public. To allow for this further consideration, MMS is reopening the comment period for 60 days to give interested persons an opportunity to obtain from MMS copies of the comments described below and then to provide a response for MMS to consider indeveloping a final rulemaking.

One of the significant comments was submitted jointly on behalf of the coal and electric utility industries by the National Coal Association, Edison Electric Institute, American Mining Congress, American Public Power Association, National Rural Electric Cooperative Association, and the Western Fuels Association, Inc. The proposal submitted by these parties includes a comprehensive, section-by-section set of revisions to the MMS' January proposed rulemaking, including justification for the suggested modifications. The most significant revisions suggested by this comment is to remove the valuation standards contained in the proposed rules and substitute instead the concepts of "gross royalty value" and "net royalty value." Essentially, the industry would base royalty values on the Internal Revenue Code's (IRC) concept of "gross income from property" used for depletion calculations under IRC section 613 and implmenting regulations. This "gross royalty value" would be increased by amounts for royalties and reduced by processing allowances and amounts based on Federal Black Lung excise taxes, Abandoned Mine Land fees and State and local taxes (such as severance taxes). The resulting figure would be the "net royalty value." This valuation starting point differs from the proposed MMS rules principally by excluding any amounts received for State and local taxes, transportation from the lease to the delivery point, and any beneficiation. (Under the proposed MMS rules, allowances would be provided for some of these amounts.)

MMS intends to evaluate the industry proposal and compare its approach with the MMS proposal, including dollar impacts, ease of administration, and consistency with basic MMS valuation principles. To facilitate this review, MMS requests that interested persons review the entire industry proposal and provide responses. MMS is particularly interested in whether any States have considered the approach suggested in the industry proposal for State taxation purposes or for royalty purposes. Copies of the industry proposal are available from MMS at the address listed in the **ADDRESS** section of this notice.

MMS also received a brief response to the industry proposal from Governor Sullivan of Wyoming, questioning some of the basic concepts in that proposal such as whether it is not simpler to start from gross proceeds under arm's length contracts as proposed by MMS. MMS will provide copies of Governor Sullivan's comments with the industry proposal and would like to receive responses from industry and others regarding the questions raised by Governor Sullivan.

During the comment period, MMS also received a comprehensive set of section-by-section comments from Indian representatives. Although the Indian comments do not include a proposal as significantly different from the MMS proposed rules as the industry proposal, the Indian comments nevertheless raise a number of significant issues related to valuation for Indian leases such as the role of the indian lessor in approving processing and transportation allowances. The MMS specifically requests further public comment on the various matters raised in the Indian comments. Copies are available from MMS at the address listed in the **ADDRESS** section of this notice.

Commenters are requested to be as specific as possible with their comments. Where practicable, the comment should identify the section of the MMS proposed rule, industry proposal, or Indian comments being addressed.

Date: August 6, 1978.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 87-18312 Filed 8-11-87; 8:45 am]

BILLING CODE 4310-MR-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-284, RM-5794]

Radio Broadcasting Services; Reidsville, NC, and Marion, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Beasley Broadcasting of Reidsville, North Carolina, Inc. seeking the substitution of Class C Channel 271 for Channel 271C1 at Reidsville and the modification of its license for Station WWMO(FM) to specify operation on the higher powered channel. This document also proposes the substitution of Channel 273A for Channel 272A at Marion, Virginia, and the modification of the license of Emerald Broadcasting, Inc. for Station WOLD-FM to specify the new channel. The allocation of Channel 271 at Reidsville specifies a site restriction of 26.4 kilometers (16.4 miles) west to accommodate the site specified in its pending application (BPH-860825IE). This site restriction does not negate the existing grandfathered short-spacings to Stations WRXL, Richmond, Virginia, and WLIT-FM, Gastonia, North Carolina. However, with the substitution of channels at Marion, there are no additional short-spacings. The allocation of Channel 273A at Marion specifies a site restriction of 7.4 kilometers (4.6 miles) north northwest to accommodate relocation of Station WOLD-FM's antenna to Walker Mountain. An *Order to Show Cause* is directed to Emerald Broadcasting, Inc. concerning the modification of Station WOLD-FM to specify operation on Channel 273A.

DATES: Comments must be filed on or before September 28, 1987, and reply comments on or before October 13, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jack W. Whitley, Esq., Baker & Hostetler, 1050 Connecticut Avenue, NW., Suite 1100, Washington, DC 20036 (Counsel to petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-284, adopted July 13, 1987, and released August 4, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-18259 Filed 8-11-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-281, RM-5847]

Radio Broadcasting Services; Chelan, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Northcentral Broadcasting Co., licensee of Stations KOZI-FM and AM, Chelan, Washington, proposing the substitution of Class C2 Channel 228 for Channel 228A at Chelan and modification of the station license to specify operation on the higher class channel, as that community's first wide area FM station. Concurrence by the Canadian government must be obtained.

DATES: Comments must be filed on or before September 13, 1987, and reply comments on or before October 13, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Lee W. Shubert, Esquire, Haley, Bader & Potts, 2000 M Street, NW., Suite 600, Washington, DC 20036 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-281, adopted July 16, 1987, and released August 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allotments Branch, Mass Media Bureau.

[FR Doc. 87-18260 Filed 8-11-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-280, RM-5787]

Radio Broadcasting Services; Rhinelander, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Oneida Broadcasting Company, licensee of Station WRHN(FM), Channel 262C2, Rhinelander, Wisconsin, proposing the substitution of Channel 262C1 for Channel 262C2 at Rhinelander and modification of its license to specify the

higher class frequency. A site restriction of 3.1 kilometers (1.9 miles) east of the community is required, which is the present site of Station WRHN(FM). Concurrence by the Canadian government must be obtained.

DATES: Comments must be filed on or before September 28, 1987, and reply comments on or before October 13, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Kathryn R. Schmeltzer, Esquire John J. McVeigh, Esquire, Fisher, Wayland, Cooper & Leader, Suite 800, Washington, DC 20037 (Counsels to petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–280, adopted July 16, 1987, and released August 5, 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 of Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–18261 Filed 8–11–87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87–283, RM–5684]

Radio Broadcasting Services; Holyoke, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Virginia K. Cutforth seeking the allotment of FM Channel 222C2 to Holyoke, Colorado as that community's first local broadcast service.

DATES: Comments must be filed on or before September 28, 1987, and reply comments on or before October 13, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Virginia K. Cutforth, 965 South Irving Street, Denver, CO 80219.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–283, adopted July 16, 1987, and released August 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87–18256 Filed 8–11–87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87–285, RM–5813]

Radio Broadcasting Services; Boothbay Harbor, ME

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Bay Communications, Inc., proposing the substitution of Channel 244B1 for Channel 244A at Boothbay Harbor, Maine, and modification of the license for Station WCME(FM) at Boothbay Harbor to specify the higher class of channel. This proposal could provide a first wide coverage area station for the community. Canadian concurrence is required for the substitution of channels and proposals must conform with the technical requirements of § 73.1030(c) (1) through (5) of the Rules regarding protection to the Commission's monitoring station at Belfast, Maine.

DATES: Comments must be filed on or before September 28, 1987, and reply comments on or before October 13, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Arthur Stambler, PC 1901 L Street, NW., Suite 200, Washington, DC 20036 (Counsel for the petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–285, adopted July 13, 1987, and released August 4, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-18257 Filed 8-11-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-306, RM-5837]

Radio Broadcasting Services; Albert Lea and Red Wing, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Communications Properties, Inc., proposing the substitution of FM Channel 235C2 for Channel 237A at Albert Lea, Minnesota, and modification of its license for Station KCPI-FM to specify operation on Channel 235C2. To accommodate Channel 235C2 at Albert Lea, two channel substitutions would be necessary. Channel 287C2 must be substituted for 235A at Stewartville and Channel 290A would be substituted for Channel 288A at Red Wing, Minnesota. Channel 235A was allocated to Stewartville in MM Docket 84-231, *First Report and Order*, 49 FR 3514, January 25, 1985. Stewartville would retain its numerical sequence of 68 and applications for Channel 287C2 would be accepted in that order. Channel 287C2 would have a site restriction 23.1 kilometers southwest of the community. Channel 288A is licensed to Station KWNG(FM), Red Wing, Minnesota and Channel 290A can be substituted at Red Wing at Station KWNG(FM)'s existing site.

DATES: Comments must be filed on or before September 28, 1987, and reply comments on or before October 13, 1987.

ADDRESS: Christopher Reynolds, Dempsey & Koplovitz, 1401 New York Avenue, NW., Suite 630, Washington, DC 20005 (counsel for the petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-306, adopted July 9, 1987, and released August 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-18258 Filed 8-11-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-278, RM-5714]

Radio Broadcasting Services; Agana, GU

AGENCY: Federal Communication Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Serafin M. Dela Cruz which proposes to allot Class C Channel 270 to Agana, Guam, as its fifth FM service.

DATES: Comments must be filed on or before October 1, 1987, and reply comments on or before October 16, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Serafin M. Dela Cruz, P.O. Box 2632, Saipan, CM 96950 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is summary of the Commission's Notice of Proposed Rule Making MM Docket No. 87-278, adopted July 20, 1987, and released August 6, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-18332 Filed 8-11-87; 8:45 am]

BILLING CODE 6717-01-M

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47 CFR Part 73

[MM Docket No. 87-277, RM-5773]

Radio Broadcasting Services; St. Joseph, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests

comments on a petition by Raymon and Brenda Chandler proposing the allotment of Channel 268A to St. Joseph, Tennessee, as that community's first FM service. A site restriction of 9.2 kilometers (5.7 miles) northwest of the city is required.

DATES: Comments must be filed on or before October 1, 1987, and reply comments on or before October 16, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Lawrence J. Bernard, Jr., Esquire, Ward & Mendelsohn, P.C., 1100 17th Street, NW., Suite 900, Washington, DC 20036 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–277, adopted July 21, 1987, and released August 6, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–18333 Filed 8–11–87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87–276, RM–5716]

Radio Broadcasting Service; Seabrook, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Roy E. Henderson, licensee of Station KLEF–FM, Channel 221A, Seabrook, Texas, proposing the substitution of Channel 221C2 for 221A at Seabrook and modification of his license to specify the higher class frequency. The proposal could provide a first wide area coverage station at Seabrook. A site restriction of 20.3 kilometers (12.6 miles) southeast of the city is required.

DATES: Comments must be filed on or before October 1, 1987, and reply comments on or before October 16, 1987.

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

Richard J. Hayes, Jr., Esquire, Attorney at Law, 1359 Black Meadow Road, Spotsylvania, Virginia 22553, (Counsel to petitioner).

Roy E. Henderson, 839 Timber Cove Drive, Seabrook, Texas 77586, (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–276, adopted July 21, 1987, and released August 6, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–18334 Filed 8–11–87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87–282, RM–5569]

Radio Broadcasting Services; Fort Bragg, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Charles W. and Josephine R. Stone, d.b.a. Fort Bragg Broadcasting Company, which seeks the allotment of Channel 244A to Fort Bragg, CA, as that community's third local FM broadcast service.

DATES: Comments must be filed on or before September 28, 1987, and reply comments on or before October 13, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel as follows: Daniel F. Van Horn, Esq., Arent, Fox, Kintner, Plotkin & Kahn, 1050 Connecticut Avenue, NW., Washington, DC 20036–5339.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–282, adopted July 16, 1987, and released August 5, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-18255 Filed 8-11-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 73-34; Notice 09]

Federal Motor Vehicle Safety Standards School Bus Body Joint Strength

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

ACTION: Reopening of comment period.

SUMMARY: This notice reopens the comment period for an advance notice of proposed rulemaking (ANPRM) published June 19, 1987, requesting comment on three basic items, all related to FMVSS No. 221, *School Bus Body Joint Strength* including exemption of the maintenance access panels, modified test procedures, and a dynamic test for school bus floors. NHTSA is granting a request to extend the comment period so that the petitioner may submit the results of dynamic tests it intends to conduct. Petitioner asserts that its tests have not been performed before, and that the results may have a substantial bearing on this ANPRM.

DATE: The comment period for Docket No. 733-34, Notice 08 now closes October 15, 1987.

ADDRESS: Comments should refer to Docket No. 73-34, Notice 08, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC, 20590. The telephone number is (202) 366-4949.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Williams, (202) 366-4919.

SUPPLEMENTARY INFORMATION: On June 19, 1987, NHTSA published an ANPRM requesting comment on several items, including whether it is appropriate to continue its exemption of school bus maintenance access panels from the body joint strength requirements of Standard 221 (52 FR 23314.) In the June 19 document, the agency sought comments on a number of questions relating to the test procedures for school bus joints. The agency also noted continuing assertions that Standard 221 apparently is imprecise and ambiguous, and that these problems, in the Standard raise further questions of whether it is enforceable.

On July 24, 1987, NHTSA received a petition submitted in behalf of Thomas Built Buses (Thomas), asking that the agency extend the comment period for 60 days. In support of its petition, Thomas asserted that it was sponsoring dynamic tests the results of which would supply data relevant to appropriate school bus floor strength standards and test methods to evaluate the efficacy of such standards. Thomas requested the extension so that it might present its test data in response to the ANPRM.

NHTSA also received a letter from the National Association of State Directors of Pupil Transportation Services (State Directors), stating the organization's belief that a "re-evaluation" of Standard 221 is "warranted," and suggesting extending the comment period.

NHTSA has considered the requests and finds that this information would be useful in the agency's current evaluation of the Standard. Further, the agency wishes to be responsive to the State Directors assertion that the activities of state school transportation organizations are restrained in the summer.

For the preceding reasons, the agency finds that there is good cause for reopening the comment period, and further finds that reopening the comment period is in the public interest. Therefore, NHTSA reopens the comment period, which expired August 3, 1987, until October 15, 1987.

Issued: August 7, 1987.

Ralph J. Hitchcock,

Acting Associate Administrator for Rulemaking.

[FR Doc. 87-18350 Filed 8-11-87; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 19A)]

Petition for Exemption; Boxcar Provisions; Delaware Otsego Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to add a provision to its boxcar exemption and rules [49 CFR 1039.14] stating that seven named Class III railroads will no longer be regarded as Class III or unaffiliated Class II carriers for the purpose of exemption and rules. The seven railroads and Delaware Otsego Corporation, which controls them, have asked that they not be afforded the special treatment for Class III and unaffiliated Class II carriers contained in the exemption and rules. The effect of the proposed provision would be to exempt boxcar traffic transported by the seven railroads from joint rate regulation, to enable them to exercise the empty car provisions of the rules, and to allow other carriers to exercise the empty car provisions with respect to the cars of these seven railroads.

DATES: Comments are due September 1, 1987. Petitioner may reply by September 21, 1987.

ADDRESSES: An original and 15 copies of any comments referring to Ex Parte No. 346 (Sub-No. 19A) should be sent to:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of comments should also be sent to petitioners' representatives as follows:

William P. Quinn, Eric M. Hocky, Rubin, Quinn and Moss, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106.

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

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. Copies of the decision are available from the Office of the Secretary, Room 2215, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 275-7428 (TDD for hearing impaired: (202) 275-1721.

This action will not significantly affect

either the quality of the human environment or energy conservation.

List of Subjects in 49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Railroads.

Decided: July 30, 1987.

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

Noreta R. McGee,

Secretary.

Part 1039 of Title 49 of the Code of Federal Regulations would be amended as follows:

PART 1039—CONTRACTS AND EXEMPTIONS

1. The authority citation for Part 1039 would continue to read as follows:

Authority: 49 U.S.C. 10321, 10505, 10713, 10762, 11105, and 11122; and 5 U.S.C. 553.

2. Section 1039.14 would be amended by adding paragraph (c)(6) as follows:

§ 1039.14 Boxcar transportation exemption and rules.

* * * * *

(c) * * *

(6) The following carriers are not regarded as Class III or unaffiliated Class II carriers for the purpose of this section:

Central New York Railroad Corporation
Cooperstown and Charlotte Valley Railway Corporation
Fonda, Johnstown & Gloversville Railroad Corporation
Lackawaxen and Stourbridge Railroad Corporation
New York, Susquehanna and Western Railway Corporation
Rahway Valley Railroad Company
Staten Island Railway Corportation

* * * * *

[FR Doc. 87-18298 Filed 8-11-87; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 52, No. 155
Wednesday, August 12, 1987

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

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

August 7, 1987.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Federal Crop Insurance Corporation
Crop Insurance Acreage Report (Selected Crops)
FCI–19
Annually
Individuals or households; Farms; 346,930 responses; 173,465 hours; not applicable under 3504(h)
Peter F. Cole (202) 447–3325
• Federal Grain Inspection Service
Reporting and Recordkeeping Requirement (USGSA and AMA of '46)
FGIS–922 and FGIS–943
Recordkeeping; occasion
State or local governments; Businesses or other for-profit; 2,705 responses; 9,019 hours; not applicable under 3504(h)
Robert "E" Soderstorm (202) 382–0231
• Soil Conservation Service
Agriculture and Urban Damage Surveys
SCS ECN 1–6
On occasion
Individuals or households; State or local governments; Farms; Businesses or other for-profit; Small businesses or organizations; 2,600 responses; 5,800 hours; not applicable uner 3504(h)
Gail Updegraff (202) 447–2307

Reinstatement

• Agricultural Stabilization and Conservation
Record of Transfer of Allotment or Quota
ASCS–375
On occasion
Individuals or households; Farms; 232,750 responses; 58,188 hours; not applicable under 3504(h)
Sarah J. Matthews (202) 475–5012
• Agricultural Stabilization and Conservation Service
Application for Review of Farm Marketing Quota
MQ–53
On occasion
Individuals or households; Farms; 256 responses; 64 hours; not applicable under 3504(h)
Sarah J. Matthews (202) 475–5012
• Farmers Home Administration
7 CFR 1933–I, Self-Help Technical Assistance Grants
Recordkeeping; On occasion
State or local governments; Non-profit institutions; 1,927 responses; 2,747 hours; not applicable under 3504(h)
Jack Holston (202) 382–9736

Revision

• Farmers Home Administration
Borrower Acknowledgement of Notice of Intent to Take Adverse Action and Agreement for the use of Proceeds/ Release of Chattel Security and/or Farm Income
FmHA 1924–26, 1962–1
On occasion
Individuals or households; Farms; 220,000 responses; 65,400 hours; not applicable under 3504(h)
Jack Holston (202) 382–9736

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 87–18404 Filed 8–11–87; 8:45 am]

BILLING CODE 3410–01–M

Cooperative State Research Service

Animal Health Science Research Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, Pub. L. 92–463, Cooperative State Research Service announces the following meeting:

Name: Animal Health Science Research Advisory Board.

Date: September 3, 1987.

Time: 8:30 a.m.

Place: Room 3056, South Agriculture Building, U.S. Department of Agriculture, 12th and Independence, SW., Washington, DC 20250.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Board will consult with and advise the Secretary of Agriculture on implementing animal health and disease research programs. Recommendations will be made also on priorities of research in these programs.

Board Names and Agenda: Available from contact person below.

Contact Person: Dyarl D. King, Executive Secretary, Animal Health Science Research Advisory Board, Cooperative State Research Service, U.S. Department of Agriculture, Washington, DC 20251–2200, telephone (202) 447–6428.

Done at Washington, DC, this 30th day of July, 1987.

John Patrick Jordan,

Administrator.

[FR Doc. 87-18302 Filed 8-11-87; 8:45 am]

BILLING CODE 3410-22-M

Soil Conservation Service

Record of Decision; Middle Big Nemaha Watershed, Nebraska

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of Record of Decision.

SUMMARY: Ron E. Hendricks, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of Nebraska, is hereby providing notification that a record of decision to proceed with the installation of the Middle Big Nemaha Watershed project is available. Single copies of this record of decision may be obtained from Ron E. Hendricks at the address shown below.

FOR FURTHER INFORMATION CONTACT: Ron E. Hendricks, State Conservationist, Soil Conservation Service, Federal Building, Room 345, 100 Centennial Mall North, Lincoln, NE 68508-3866, telephone 402-471-5300.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Date: August 4, 1987.

Ron E. Hendricks,

State Conservationist.

[FR Doc. 87-18281 Filed 8-11-87; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

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

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

Agency: National Oceanic and Atmospheric Administration
Title: Statement of Financial Interests for Regional Fishery Management Councils' Members and Regional Directors
Form Number: Agency—N/A; OMB—N/A
Type of Request: New Collection
Burden: 50 respondents; 25 burden hours
Needs and Uses: Section 302(k) of the Magnuson Fishery Conservation and Management Act, as amended by Pub. L. 99-659 requires disclosure by nominees to, executive directors, and members of the Fishery Management Councils of any financial interest in any harvesting, processing, or marketing activity. Information is required to be made available for public inspection.
Affected Public: Individuals
Frequency: On occasion, once every three years thereafter
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: John Griffen, 395-7340

Agency: National Oceanic Atmospheric Administration
Title: Fish Tagging Report
Form Number: Agency—NOAA 88-162; OMB—0648-0009
Type of Request: Extension of the expiration date of a currently improved collection
Burden: 2833 respondents; 85 burden hours
Needs and Uses: The cooperative Marine Game Fish Program was initiated in 1963 as part of a comprehensive research program. This program attempts to determine the migratory patterns and other biological information of billfishes, tunas and sharks by having anglers tag and release their catch. Information is used by the National Marine Fisheries Service for the purpose of developing management criteria.
Affected Public: Individuals
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: John Griffen, 395-7340

Agency: National Oceanic and Atmospheric Administration
Title: Report of Transmitting Antenna Construction, Alteration, or Removal
Form Number: Agency—NOAA 76-10; OMB—0625-0096
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 780 respondents; 195 burden hours
Needs and Uses: NOAA is charged through various laws with the collection, verification, compilation, printing, and distribution of accurate aeronautical charts to be used in air commerce. This data collection is used to produce the charts.
Affected Public: State or local governments; businesses and other for-profit institutions; federal agencies; non-profit institutions; small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Mandatory
OMB Desk Officer: John Griffen, 395-7340

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

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

Dated: August 7, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-18408 Filed 8-11-87; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: Internatonal Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.53a or § 355.10 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than August 31, 1987, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in August, for the following periods:

	Period
Antidumping Duty Proceeding:	
Cadmium from Japan	08/01/86-07/31/87
Industrial nitrocellulose from France	08/01/86-07/31/87
High capacity pagers from Japan	08/01/86-07/31/87
Tapered roller bearings four inches or less in outside diameter, and certain components thereof from Japan	08/01/86-07/31/87
Clear sheet glass from Taiwan	08/01/86-07/31/87
Titanium sponge from the Union of Soviet Socialist Republics	08/01/86-07/31/87
Petroleum wax candles from the People's Republic of China	02/19/86-07/31/87
Acrylic sheet from Japan	08/01/86-07/31/87
Countervailing Duty Proceeding:	
Live swine from Canada	04/01/86-03/31/87
Low-fuming brazing copper rod and wire from New Zealand	08/01/86-07/31/87
Pipes and tubes from Thailand	01/01/86-12/31/86
Carbon steel wire rod from Zimbabwe	06/04/86-12/31/86

Seven copies of the request should be submitted to the Deputy Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230.

The Department wil publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by August 31, 1987.

If the Department does not receive by August 31, 1987 a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Date: August 6, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-18409 Filed 8-11-87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Groundfish Management Team will convene a public meeting, August 26-28, 1987, at 8 a.m., to prepare a draft annual status of stocks document; finalize draft Amendment #3 to the fishery management plan; review catch projections for certain groundfish species, and review sablefish resource assessment reports. Other issues related to groundfish fishery management may be discussed also.

The public meeting will convene at the National Marine Fisheries Service, Northwest and Alaska Fisheries Center, 7600 Sand Point Way, NE., Building 4, Room 2079, Seattle, WA. For further information about the public meeting, contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 221-6352.

Dated: August 7, 1987.

Henry R. Beasley,

Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. 87-18308 Filed 8-11-87; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Amended Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The date and location as published in the **Federal Register** (52 FR 29053, August 5, 1987) for the public meeting of the Pacific Fishery Management Council's Limited Entry Committee has been changed as follows:

From

August 18-19, 1987 at 10 a.m., at the Pacific Council's Offices, Metro Center, Room 330, 2000 SW. First Avenue, Portland, OR

To

August 19-29, 1987 at 10 a.m., at the Holiday Inn, Portland Airport, Tampico Room, 8439 NE. Columbia Boulevard, Portland, OR. All other information in the original agenda remains unchanged.

For further information about the public meeting, contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 221-6352.

Date: August 6, 1987.

Henry R. Beasley,

Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. 87-18309 Filed 8-11-87; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Automotated Precision, Inc. having a place of business in Gaithersburg, MD, an exclusive right in the United States to manufacture, use, and sell products embodied in the invention entitled "Three and Five Axis Laser Tracking System," U.S. Patent Application Serial Number 6-834,728. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within 60 days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 87-18313 Filed 8-11-87; 8:45 am]

BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License; Oligogen

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Oligogen, having a place of business in Menlo Park, CA, an exclusive right in the United States and certain foreign countries to manufacture, use, and sell products embodied in the invention entitled "Phosphorothioate Analogues of Oligodeoxyribonucleotides As Inhibitors for Replication and Cytopathic Effects of HTLV-III Retroviruses and Other Foreign Nucleic Acids," U.S. Patent Application S.N. 7-030,073. The patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209

and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS, receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 87-18282 Filed 8-11-87; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.153]

Invitation of Applications for New Awards under the Business and International Education Program for Fiscal Year 1988

Purpose: Provides grants to enhance international academic programs of higher education institutions and expand the capacity of the business community to engage in international economic activities.

Deadline for transmittal of Applications: November 9, 1987.

Applications available: September 11, 1987.

Available funds: The Administration's budget request for fiscal year 1988 does not include funds for this program. However, applications are bing invited to allow for sufficient time to evaluate applications and complete the grant process before the end of the fiscal year, should the Congress appropriate funds for this program. The following estimates are based upon the FY 1987 appropriation.

Estimated Range of Awards: $40,000 to $135,000.

Estimated Average Size of Awards: $60,000.

Estimated Number of Awards: 15.

Project Period: Up to 24 months.

Applicable Regulations: (a) Business and International Education Program, 34 CFR Part 661, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77 and 78.

For Applications or Information Contact: Susanna C. Easton, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3053, ROB 3, Washington, DC 20202. Telephone: 202-732-3302.

Program Authority: 20 U.S.C. 1130-1130b.

Dated: August 6, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 87-18354 Filed 8-11-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Prairie View A&M University et al.; Restricted Eligibility for Grant Award

AGENCY: Albuquerque Operations Office, DOE.

ACTION: Notice of Restricted Eligibility for Grant Award.

SUMMARY: The Department of Energy (DOE) Albuquerque Operations Office, in accordance with 10 CFR 600.7(b), gives notice of its plans to restrict eligibility for the award of grants to Prairie View A&M University, Prairie View Texas, Central State University, Wilberforce, Ohio and Langston University, Langston, Oklahoma. These grants, which are pursuant to 42 U.S.C. 5813(11), are designed to assure an adequate supply of manpower for the accomplishment of energy research and development programs, by sponsoring and assisting in education and training activities in institutions of higher education, and are part of the Department's Cooperative Education Program, (Federal Personnel Manual, Chapter 308). DOE considers it necessary to restrict eligibility for award of financial assistance to these three institutions in order to increase the number of qualified Blacks in the Albuquerque Operations work force and ultimately to overcome the under-representation of Blacks in the Department's work force, thereby accomplishing one of the objectives of the cooperative education program, that of supporting equal employment opportunity. DOE selected Prairie View A&M University, Central State University and Langston University because (1) each institution is a historically Black college or university as referenced in Executive Order 12320, dated September 15, 1981, (2) each institution's prior participation in the Department's Black Cooperative Education Program, (3) each institution's proximity to Albuquerque Operations facilities; and (4) each institution's record of providing qualified Blacks for recruitment into the Department's work force.

FOR FURTHER INFORMATION CONTACT: Grace M. Tilton, U.S. Department of Energy, Albuquerque Operations Office, Contracts & Industrial Relations Division, P.O. Box 5400, Albuquerque, NM 87115, (505) 846-3101.

Issued in Albuquerque, NM, August 4, 1987.

V.V. Berniklau,

Assistant Manager for Administration.

[FR Doc. 87-18299 Filed 8-11-87; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5090-005]

Intent To Prepare Environmental Impact Statement and To Hold Scoping Session and Public Meeting; City of Idaho Falls

August 5, 1987.

The City of Idaho Falls filed on November 29, 1984, an application for license for the Shelley Hydroelectric Project, FERC No. 5090. The proposed project would be constructed on the Snake River near the City of Shelley in Bingham County, Idaho.

The Commission staff has determined that issuance of a license for the proposed hydroelectric project would constitute a major federal action significantly affecting the quality of the human environment. The staff therefore intends to prepare an environmental impact statement [EIS] in accordance with the National Environmental Policy Act. Environmental impacts of the proposal and possible alternatives will be discussed in the EIS. A scoping document will follow this public notice and will be sent to all recipients of this notice prior to the scoping session and public meeting.

Scoping Session

Interested persons and agencies are invited to participate in a scoping session to discuss environmental impact issues associated with the proposed Shelley Project. The scoping session will be held on Wednesday, September 16, 1987, starting at 9:00 a.m., at the City Council Chambers, Electric Light Division Building, 140 South Capital Street, Idaho Falls, Idaho.

Scoping sessions are used by the Commission staff for the following: (1) To present environmental issues that have been identified for coverage in the EIS to the public and to experts familiar with the project; (2) to receive input from the public and experts on the issues presented; (3) to clarify the significance of issues; (4) to identify additional issues for treatment in the EIS; and (5) to identify issues that do not merit treatment in the EIS. Agencies and

individuals with environmental expertise and concerns are encouraged to attend the meeting and to assist the Commission's staff with the determination of issues to be addressed in the EIS.

Public Meeting

Interested officials and members of the public are invited to express their views about the project in a public meeting. The public meeting will be held on Wednesday, September 16, 1987, starting at 7:00 p.m., at the Senior Citizen Center, 193 West Pine Street, Shelley, Idaho.

At the public meeting persons may give their statements orally or in writing. The meeting will be recorded by a stenographer, and all statements (oral and written) will become part of the public meeting record. In addition, the public meeting record will remain open until October 5, 1987, and anyone may submit written comments on the project until that time. Comments should be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, and should clearly show the project name and number (Shelley Hydroelectric Project, FERC No. 5090–005) on the first page. For additional information, contact John Estep, the EIS coordinator, at (202) 376–1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–18274 Filed 8–11–87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87–557–000]

Notice of Filing; Central Vermont Public Service Corp.

August 6, 1987.

Take notice that on July 31, 1987, Central Vermont Public Service Corporation (CVPS) tendered for filing as an initial rate schedule a letter amending the System Sales Agreement (Agreement) between the Unitil Power Corporation (Unitil) and Central Vermont Public Service Corporation. The Amended Agreement, dated June 23, 1987, provides for the sale of 25 MW of capacity and related energy from the CVPS system to Unitil and the purchase by Unitil of energy and capacity from the CVPS system.

Unitil shall pay CVPS a monthly capacity charge of $9.35 per KW/month as well as an energy charge and a transmission charge. An October 31, 1987 effective date has been requested.

Copies of the filing were served upon the respective jurisdictional customers of the parties hereto, as well as the Vermont Public Service Board and the New Hampshire PUC. CVPS further states that the filing is in accordance with Section 35 of the Commission's Regulations.

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, 385.214). All such motions or protests should be filed on or before August 20, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. 87–18276 Filed 8–11–87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87–373–000]

Notice of Filing; Iowa Public Service Co.

August 6, 1987.

Take notice that on July 23, 1987 Iowa Public Service Company (IPS) tendered for filing its Second Amendment containing additional documentation for an executed Firm Power Interchange Service Agreement dated November 15, 1985 and the First Amendment to Firm Power Interchange Service Agreement date November 21, 1986, whereby Iowa Public Service Company will supply the LaPorte City Municipal Utilities, LaPorte City, Iowa with firm electric capacity, commencing December 31, 1985 and continuing through December 31, 2000. Iowa also filed an executed Agreement for LaPorte City Connection dated December 19, 1985 by which Iowa Electric Light and Power Company will provide transmission service to implement the Firm Power Agreement.

IPS requests an effective date of December 23, 1985, and therefore requests a waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 20, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. 87–18277 Filed 8–11–87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87–558–000]

Notice of Filing; Kansas City Power & Light Co.

August 6, 1987.

Take notice that on August 3, 1987, Kansas City Power & Light Company (KCPL) tendered for filing with the Commission proposed changes in Service Schedules for Firm Power Service to supersede and replace Service Schedules for Firm Power Service in contracts and agreements with the following wholesale customers:

1. City of Marshall, Missouri (Marshall), FPC No. 83
2. Missouri Public Service Company (MPS), FPC No. 74
3. City of Higginsville, Missouri (Higginsville), FERC No. 91
4. City of Salisbury, Missouri (Salisbury), FERC No. 100
5. City of Slater, Missouri (Slater), FERC No. 97
6. City of Carrollton, Missouri (Carrollton), FERC No. 86

The proposed changes would decrease revenues from jurisdictional sales revenues by $246,245.19 based on the 12-month period ending September 30, 1985.

These new Schedules are filed in compliance with a Joint Offer of Settlement in Docket No. ER86–273–001 approved by the Commission by order dated July 31, 1986. The result of the change will be to reduce the test year increase reflected by the rates in the present rate schedules from the Company's Missouri Sales for Resale customers from 16.6111% to 9.14% over test year revenues.

A copy of the filing was sent to each customer affected and to the Missouri Public Service Commission.

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, 385.214). All such motions or protests should be filed on or before August 20, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

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. 87-18278 Filed 8-11-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF87-535-000]

Application for Commission Certification of Qualifying Status of a Small Power Production Facility; South Valley Power Corp.

August 3, 1987.

On July 21, 1987, South Valley Power Corporation [Applicant], of 551 Pruett Road, P.O. Box 752, Calexico, California 92231 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 in section 11, approximately one mile north of Calexico, in Imperial County, California. The facility will consist of a steam generator and a turbine generator. The primary energy source will be biomass comprised of agricultural and wood wastes. Approximately two percent of the total annual energy input to the facility will be natural gas, which will be used for start-up. However, in no event, such fossil fuel uses will exceed 25% of the total energy input to the facility during any calendar year period. The electric power production capacity of the facility will be 5 MW.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

[FR Doc. 87-18275 Filed 8-11-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER87-555-000]

Filing; Public Service Electric and Gas Co.

August 6, 1987.

Take notice that on July 31, 1987, Public Service Electric and Gas Company (PSE&G) tendered for filing an initial Rate Schedule to provide transmission service to EF Union, Inc. (EF Union). The Rate Schedule provides for a monthly transmission service charge of $1.63 per kilowatt plus $.00048 per kilowatthour for the delivery of the net electric power output of EF Union's qualifying cogeneration facility to be located in the City of Union, Union County, New Jersey to Jersey Central Power and Light Company.

PSE&G request, with the customer's consent, a waiver of the Notice Requirements of § 35.3(a) of the Commission's Regulations so that the Rate Schedule can be submitted for filing at this time and PSE&G further requests that the filing be made effective within sixty (60) days of the date of this filing.

PSE&G states that a copy of this filing has been served by mail upon the customer and the New Jersey Board of Public Utilities.

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, 385.214). All such motions or protests should be filed on or before August 20, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. 87-18279 Filed 8-11-87; 8:45 am]

BILLING CODE 6717-01-M

Filing; Wisconsin Power and Light Co.

[Docket No. ER87-554-000]

August 6, 1987.

Take notice that on July 31, 1987, Wisconsin Power and Light Company, tendered for filing proposed changes in its W-1, W-2, and W-3 Electric Service Tariffs, Wholesale For Resale. The Company has proposed interim changes which would decrease revenues from W-1 customers by $102,000, from W-3 Customers by $1,380,000 and increase revenues from W-2 by $114,000 for the twelve months ending July 31, 1988. In addition, the Company is seeking permanent annual decrease of $107,000 in W-1 revenues and $1,198,000 in W-3 revenues, and permanent annual increases in W-2 revenues of $129,000, all based on the same 12-month period ending July 31, 1988.

Wisconsin Power and Light Company states that the proposed overall decrease in wholesale revenues reflects declining operating costs. By its filing, the Company is requesting that the interim changes for the W-1 and W-3 customers become effective on August 1, 1987 and accordingly seeks a waiver of the Commission's notice requirements. The Company seeks an effective date of September 30, 1987 for the W-2 tariff but asks that the Commission suspend the proposed W-2 rates until the earlier of a data mutually agreeable to the Company and the W-2 customers or an initial in this proceeding after hearing.

Copies of the filing were served upon the affected jurisdictional customers and the Public Service Commission of Wisconsin.

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, 385.214). All such motions or protests should be filed on or before August 20, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

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. 87-18280 Filed 8-11-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-526-001]

Application for Commission Recertification of Qualifying Status of a Cogeneration Facility; Watson Cogeneration Co. and ARCO Petroleum Products Co.

August 7, 1987.

On July 21, 1987, Watson Cogeneration Company, 1801 E. Sepulveda Blvd., Carson, California 90745 and ARCO Petroleum Products Company, 333 Michelson Drive, Irvine, California 92730 (collectively "Applicant"), submitted for filing an application for recertification 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 at the Watson Refinery, in Carson, California. The facility will consist of four combustion turbine-generators, four supplementally fired heat recovery steam generators (HRSG) and two extraction steam turbine-generators. The extracted steam together with steam from the HRSG will be used in the refinery for process operations, predominantly for process heat and steam turbine drives. The primary energy source will be natural gas supplemented with refinery gas and refinery supplied butane. The net electric power production capacity of the facility will be 385 MW. Installation of the facility was expected to begin on August 1, 1986 with date of commercial operation in December, 1987.

By order issued November 7, 1985, the Director of the Office of Electric Power Regulation granted certification of the facility as a cogeneration facility under Docket No. QF85-526-000.

The recertification is requested due to change of ownership of the facility from ARCO Petroleum Products Company to Watson Cogeneration Company and ARCO Petroleum Products Company. Products Cogeneration Company ("PCC") holds a 51% ownership interest in Watson, and Camino Energy Company ("Camino") holds a 49% ownership interest in Watson. PCC is a Delaware corporation and is a wholly-owned subsidiary of Atlantic Richfield Company ("ARCO"), a Delaware corporation. Camino is a California corporation and is a wholly-owned subsidiary of mission Energy Company, which is a wholly-owned subsidiary of Southern California Edison Company ("SCE"), a California corporation and an electric utility within the meaning of the Public Utilities Regulatory Policies Act. All other facilities' characteristics remain unchanged.

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, 385.214). All such motions or protests should be filed in the **Federal Register** on or before August 24, 1987. Protests will be considered by the Commisison in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. 87-18297 Filed 8-11-87; 8:45 am]

BILLING CODE 6717-01-M

Southwestern Power Administration

Federal Hydroelectric Power; Power Allocation Policy

AGENCY: Southwestern Power Administration, DOE.

ACTION: Adoption of a policy for the allocation of power and energy from Federal hydroelectric power projects.

SUMMARY: In 1980, the Southwestern Power Adminisration (SWPA) adopted a Final Power Allocation which allocated existing and known future Federal hydroelectric peaking capacity and associated energy to perference customers in the SWPA marketing area. That Power Allocation was published in the **Federal Register** (45 FR 19032) dated March 24, 1980. By letter dated January 24, 1984, President Reagan set forth a policy which requires Federal agencies to negotiate reasonable non-Federal funding prior to the start of construction for new Federal hydroelectric power projects (new Federal projects). The 1980 SWPA Power Allocation does not address the allocation of power and energy from construction of new Federal projects with funds advanced by non-Federal entities. As a result of these changing conditions, SWPA believed a policy was needed to address the allocation of power and energy that may become available for marketing from existing and new, Federally and non-Federally funded, hydroelectric power projects.

A notice of intent to develop an additional power and energy allocation policy was published in the **Federal Register** (50 FR 7639) dated Febrary 25, 1985. A proposed policy for the allocation of power and energy from new Federal projects constructed with non-Federal funds was published in the **Federal Register** (50 FR 25316) dated June 18, 1985. Interested parties were given the opportuntity to comment on the proposed policy by July 18, 1985. SWPA carefully considered all of the comments received. A revised proposed policy was published in the **Federal Register** (51 FR 37228) dated October 20, 1986, for the allocation of power and energy to be generated at all new Federal projects. Interested parties were invited to comment on the revised proposed policy by November 20, 1986. SWPA has carefully considered all of the comments received on the revised proposed policy and hereby announces a policy for the allocation of power and energy from existing and new, Federally and non-Federally funded, Federal projects in the SWPA marketing area.

This policy does not affect the selection of non-Federal entities willing to provide funding, prior to the start of construction for new projects, since such selection will be a separate process and will be a joint effort of SWPA and the U.S. Army Corps of Engineers (Corps). Selection procedures and criteria for project sponsor selection will be developed by SWPA and the Corps.

DATE: The policy for allocation of power and energy is hereby adopted, effective August 12, 1987.

ADDRESS: Questions may be mailed to: Francis R. Gajan, Director of Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Okkahoma 74101.

FOR FURTHER INFORMATION CONTACT: Francis R. Gajan, Director of Power Marketing, (918) 581-7529.

SUPPLEMENTARY INFORMATION: The SWPA markets hydroelectric power and energy from 23 operating multipurpose projects constructed and operated by the Corps. The SWPA's marketing area includes the states of Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas.

SWPA supports the construction of the following projects provided that they are economically feasible, environmentally acceptable, and marketable. Additional hydroelectric power projects are being studied by the Corps. All of the proposed projects will probably require advance non-Federal funding.

PROPOSED CORPS PROJECTS PRESENTLY SUPPORTED BY SWPA

Proposed project	River basin	State	Proposed installed capacity (in MWs)	Estimated average annual energy (in GWHs)
Mayo Lock & Dam	Arkansas	OK	32.9	138.0
Fort Gibson Units 5&6	Grand	OK	22.5	38.9
Denison Units 3&4	Red	TX	70.o	50.2
Lock & Dam #9	Arkansas	AR	37.5	194.0
Toad Suck Ferry Lock & Dam	Arkansas	AR	15.0	77.1
Lock & Dam #26	Mississippi	IL	156.0	708.0
Norfork Units 3&4	North Fork	AR	85.0	4.4
Lock & Dam #2	Arkansas	AR	107.64	384.5
Lock & Dam #3	Arkansas	AR	36.68	154.3
Lock & Dam #4	Arkansas	AR	26.84	123.0
Lock & Dam #5	Arkansas	AR	33.36	154.6
David Terry L&D	Arkansas	AR	33.36	154.6
Lock & Dam #	Red	LA	25.0	56.0
Lock & Dam #2	Red	LA	35.0	114.5
Lock & Dam #3	Red	LA	57.0	197.0
Lock & Dam #4	Red	LA	33.9	122.0
Lock & Dam #5	Red	LA	43.1	151.0
Totals			850.78	2,822.1

SWPA subscribes to the following general principles regarding new Federal projects: First, new Federal projects which are economically feasible, environmentally acceptable, and marketable should be developed. Second, new generation projects and transmission projects should represent the lowest cost, long term power and energy supply to customers consistent with sound business principles. Finally, public bodies and cooperatives shall have perference in receiving the power from those new Federal projects.

Following two earlier opportunities for public comment, a revised proposed policy for the allocation of power and energy from new Federal projects constructed with non-federal funds was published in the **Federal Register** (51 FR 37228) dated October 20, 1986. Interested parties were invited to comment on the proposed policy by November 19, 1986. Nine letters containing comments and numerous letters in support of new hydroelectric power construction and the Revised Proposed Power Allocation Policy were received in response to the last publication. Summaries of the comments received on the revised Proposed Power Allocation Policy and SWPA's responses follow. References in the comments are referring to **Federal Register** (51 FR 37228) dated October 20, 1986.

1. *Comment:* The Proposed Power Allocation Policy should be revised to redress an inequity that exists because the non-interconnected or ERCOT portion of Texas has received significantly less than its fair share of SWPA power.

SWPA Response: After evaluation of all comments received, SWPA believes the Power Allocation Policy provides for an equitable procedure for the allocation of power and energy to preference customers in the SWPA marketing area.

2. *Comment:* Entity believes that if there were to be new generation construction at Denison Dam, it should have a right to compete for such power and energy, allocated on a fair share basis.

SWPA Response: All power and energy available for allocation will be allocated in accordance with the Power Allocation Policy which provides an equitable basis for the sharing of resource outputs. The selection of sponsors to provide non-Federal funds for Federal consturction shall be accomplished by the Corps and SWPA, jointly, with full public participation.

3. *Comment:* Prior to any new allocation, SWPA should send a preliminary notice to all its customers as per the theoretical example. This notice should include the information on loans being used for each customer in calculating the new allocation. This would allow SWPA customers to comment on the proposed allocations and to update their loans if different from the information used by SWPA.

SWPA Response: Concur.

4. *Comment:* Request the proposed policy be revised to include additional guidance on how new preference customers should submit application for an allocation, whether the project is Federally or non-Federally funded.

SWPA Response: A notice of intent to develop policy for the selection of new customers to receive Federal hydroelectric power and energy was published in the **Federal Register** (52 FR 4186) on February 10, 1987. The policy for new customer selection would address the guidance requested in this comment. SWPA has scheduled that policy to be completed by the end of 1987.

5. *Comment:* We are concerned by a serious adverse affect that the policy may have on SWPA customers located in the ERCOT region of Texas. The policy permits the financial integration of projects into the SWAP system in exchange for 50 percent of the project power to be allocated to SWPA customers. If operating conditions in Texas remain the same (i.e., no viable interconnections between ERCOT and the Southwest Power Pool), and new projects become financially integraterd into the SWPA system, ERCOT customers purchasing SWPA power under system rates will suffer an increase in rates without the offsetting benefit of additional power allocations. We are concerned that this policy will result in inequitable treatment of certain ERCOT customers.

SWPA Response: Any existing ERCOT customer receiving power and energy from the existing SWPA system and paying system rates would be treated exactly as any other customer receiving power and energy from the existing SWPA system and paying system rates.

6. *Comment:* To allow only one year for a preference customer to make arrangements to receive its allocated power resource may be unduly restrictive because some allocations are

made several years prior to availability of the energy resource. We concur with a time requirement for completion of necessary arrangements for receipt of allocations, but maybe it should be more than one year in some cases.

SWPA Response: The Power Allocation Policy has been written to eliminate the requirement of one year to make transmission arrangements to receive the power. It now provides for one year to sign a contract with SWPA for the allocation.

7. *Comment:* Precedence between a Federal Energy Regulatory Commission (FERC) hydroelectric license and a SWPA-sponsored new Federal hydroelectric project needs to be more clearly stated.

SWPA Response: The FERC has established a policy that a FERC license will not be granted for the construction of hydroelectric power facilities at existing Federal facilities or where Federal facilities have been authorized under public law. Other than the above, we know of no other precedence in the development methodology.

8. *Comment:* A formal financial feasibility procedure should be encouraged.

SWPA Response: We agree. SWPA is developing a policy for the determination of the Marketing Feasibility of Power and Energy from Proposed New Hydroelectric Power Projects. A draft policy was mailed to all SWPA's customers in February 1987, and a completed policy is scheduled by the end of calendar year 1987.

9. *Comment:* Percentage of Construction Funds Provided by the Sponsor—Whether interest paid during construction is included in these calculations needs to be stated since the expense can increase construction costs significantly.

SWPA Response: SWPA does not believe there needs to be a specific reference in the policy since interest during construction is included in the total construction costs analysis.

10. *Comment:* It is premature to state that the Corps has identified the five projects on the Red River as being economically and environmentally acceptable.

SWPA Response: Preliminary information has been furnished to SWPA which shows the Red River projects to be economically feasible and environmentally acceptable. SWPA recognizes that the information could change with further studies, and we have clarified this point.

11. *Comment:* It was suggested that the final policy include a specific provision to guarantee that customers of power generated at isolated projects will continue to receive amounts of capacity and energy equal to that which they now receive under existing contracts. Both SWPA and interested sponsors should be permitted to participate in the feasibility studies conducted by the Corps.

SWPA Response: Existing contracts will be honored through the term of the contract. While the Government is presently committed to an announced policy of not removing a Federal allocation, the Government will not guarantee the disposition of its resources beyond present contract commitments. The Corps encourages participation in water resource studies from other Federal agencies and non-Federal entities.

12. *Comment:* As a practical matter, most preference customers should be able to submit bids below bids of non-preference entities because they do not operate for profit. Nevertheless, they should still be given an opportunity to match a lower bid submitted by a non-preference entity and become the project sponsor if they so desire.

SWPA Response: Energy entity interested in being a project sponsor for a Federal hydroelectric power project will be given a chance to submit a proposal through a public participation process. An opportunity for a preference customer to match a low bid by a non-preference customer will not be given. If a non-preference entity is selected as the project sponsor, power and energy would be marketed to preference entities according to the power allocation policy.

13. *Comment:* Concern was expressed that selection of project sponsors based on the lowest bid may encourage unrealistic bids. SWPA was urged to establish procedures to ensure the accuracy of submitted bids and to force project sponsors to perform pursuant to the terms of their initial bids.

SWPA Response: We agree. The Corps will be overseeing all new design and construction efforts in the SWPA marketing area for Federal hydroelectric power facilities. Binding contracts will be signed between the Government and project sponsors to ensure accuracy and performance of all entities.

14. *Comment:* The methodology proposed in the Revised Proposed Power Allocation Policy contradicts the principles agreed to under the "Settlement Agreement" between the SWPA and the State of Arkansas in the settlement of a Federal lawsuit (No. LR-C-82-807).

SWPA Response: SWPA believes it has complied with all the terms in the referenced "Settlement Agreement." SWPA has investigated many different methodolgies during the development of the Power Allocation Policy. After reviewing the various methods of allocating power and considering the interests of all entities, SWPA believes the methodology in the Power Allocation Policy is the most equitable for everyone involved.

15. *Comment:* It was suggested the revised proposed policy be modified by eliminating references to an "increase in its allocation up to 10 percent of its allocation until such time as that state receives its fair share."

SWPA Response: SWPA believes after evaluation of all comments, the Power Allocation Policy is an equitable process for all entities involved and provides for the widespread use of the hydroelectric power produced in the SWPA marketing area.

16. *Comment:* SWPA should clarify that the "equalization adjustment" specified, would not apply to all potential new hydroelectric power projects, but is limited tho those identified on Page 3 of said revised proposed policy as those currently proposed by the Corps and supported by SWPA.

SWPA Response: The Power Allocation Policy will apply to all new Federal projects as well as allocations of any other Federal power available for allocation in the SWPA marketing area.

Copies of the following Power Allocation Policy will be mailed to all SWPA customers, state agencies, other Federal and non-Federal agencies, and other known interested parties.

Questions on the Power Allocation Policy should be addressed to: Francis R. Gajan, Director of Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101, (918) 581-7529.

Southwestern Power Administration

Policy for the Allocation of Power and Energy From Federal Hydroelectric Power Projects

The Administrator (Administrator) of the Southwestern Power Administration (SWPA) shall allocate all Federal hydroelectric power (in whole kilowatts) and energy that may become available for marketing from existing and new, Federally and non-Federally financed, Federal hydroelectric power projects in proportion to the funds provided by Federal and non-Federal sources relative to the total Federal project expenditures in accordance with the preference provisions of section 5 of the Flood Control Act of 1944 and the following:

Section I: Allocation When Financing in Whole or in Part Is With Federal Funds

1. Power from each hydroelectric power project available for allocation shall be divided among the states in SWPA's marketing area in a ratio of the existing SWPA customers' load in each state to the existing SWPA customers' total load. Except that each state which has not reached its fair share of Federal hydroelectric power as determined in the Final Power Allocation of March 24, 1980 (45 FR 19032) shall receive an increase in its distribution up to 10 percent of its distribution until such time as that state receives its fair share. The distribution to states already having a fair share shall be reduced by an amount equal to the total adjustment to states that have not received their fair share divided proportionately among the states that have received a fair share.

2. Ninety percent of the power distributed to each state shall be allocated to the existing SWPA customers in the ratio that each existing SWPA customer's load bears to the sum of the existing SWPA customers' total load in that state.

3. Ten percent of the power distributed to each state shall be allocated to new customers in that state. New customers shall be selected in accordance with SWPA's New Customer Selection Policy. The amount of power to be allocated to a new customer shall be determined on the ratio that each new customer's load bears to the sum of the existing SWPA customers' total load (including the new customer's load) in that state multiplied by the adjusted allocation in that state. If the amount of power to be allocated exceeds the new customer's allocation, the remaining power shall be allocated to the next new customer in line and so forth. Once a new customer receives its allocation, it shall be treated as an existing customer. If the amount to be allocated is less than the new customer's allocation, then that new customer shall be treated as a new customer until such time that it has received its total allocation.

4. Customers with a total allocation greater than 1,000kWs shall receive scheduled energy at a rate rounded to the nearest 1,000 kWs. Customers with a total allocation equal to or greater than 500 kW but less than 1,000 kW shall receive energy at a rate of 1,000 kW on demand. Customers with a total allocation less than 500 kW shall receive energy at a rate of 1,000 kW at SWPA's discretion and not necessarily on the customer's demand. The customer shall receive an average amount of energy equal to the customer's allocated capacity times 1200 hours per year and an opportunity to share in SWPA's supplemental peaking and excess energy when available.

5. Existing and new customers shall have one year from the date of notice of an allocation to negotiate a contract with SWPA. If contracts are not negotiated within that time frame, the allocation not under contract shall be withdrawn and reallocated to new customers within that state in accordance with Section I, paragraph 3, above and this paragraph 5. If contracts are negotiated, the customer shall commence payment for the allocated capacity and 1200 hours of associated energy on the date SWPA declares the project in commercial operation regardless of whether transmission arrangements to receive the power and energy are completed.

Section II: Allocation When Financing Is With Non-Federal Funds

Part A: Funds Provided by Public Bodies or Cooperatives. If a non-Federal sponsor entitled to preference under Section 5 of the Flood Control Act of 1944 provides funds for a new Federal hydroelectric power project and wants Federal hydroelectric power and energy, the Administrator shall allocate to the sponsor a portion of the power and energy not to exceed the percentage of the construction funds provided by the sponsor times the power and energy available for allocation. The allocation shall be determined based on the following factors:

1. If the project is operated and marketed in such a way that it neither impacts nor is supported by other Federal hydroelectric power projects (positive or negative effects on existing system capacity and energy) or does not increase the SWPA system rates, the Administrator shall allocate to the sponsor a portion of the power and energy from the project equal to the percentage of constuction funds provided by the sponsor times the power and energy available for allocation. The power and energy not allocated to the sponsor pursuant to Section II shall be allocated in accordance with Section 1, above.

2. If the project is operated in such a way that it either impacts or is supported by other Federal hydroelectric power projects and will be marketed in such a way that it does not increase system rates, the Administrator shall allocate to the sponsor a portion of the power and energy from the project equal to the percentage of construction funds provided by the sponsor times the power and energy available for allocation adjusted to account for the impacts on, or support furnished by other Federal hydroelectric power projects. The adjustment shall be determined on a project-by-project basis. The adjustment shall reflect the cost of the impacts or loss of system benefits resulting from such impacts. The power and energy not allocated to the sponsor pursuant to Section II shall be allocated in accordance with Section I, above.

3. If the project is operated in such a way that it neither impacts nor is supported by other Federal hydroelectric power projects but is marketed in such a way that it does increase system rates, the Administrator shall allocate to the sponsor a portion of the power and energy from the project equal to the percentage of construction funds provided by the sponsor times the power and energy available for allocation multiplied by 50 percent. The power and energy not allocated to the sponsor pursuant to Section II shall be allocated in accordance with Section 1, above.

4. If the project is operated and marketed in such a way that it either impacts or is supported by other Federal hydroelectric power projects and increases system rates, the Administrator shall allocate to the sponsor a portion of the power and energy from the project in the same manner as Section II, Part A.2 multiplied by 50 percent. The power and energy not allocated to the sponsor pursuant to Section II shall be allocated in accordance with Section I, above.

Part B: Funds Provided by Other Than Public Bodies and Cooperatives. If a non-Federal sponsor not entitled to preference under Section 5 of the Flood Control Act of 1944 provides funds for a new Federal hydroelectric power project and wants Federal hydroelectric power and energy, the Administrator shall allocate all of the marketable power and energy from the project in accordance with the preference provisions of Section 5 of the 1944 Flood Control Act and the state distribution procedures set forth in Section I, above. However, if preference utilities are not ready, willing, and able to accept a portion or all of the new allocation, then the Administrator will allocate the power and energy to the sponsor in accordance with Section II, Part A, above limited to a 5 year term. At the end of the 5 year term and each successive 5 year term, the Administrator shall again allocate that power and energy in accordance with Part B of this Power Allocation Policy.

Part C: Allocation When Non-Federal Sponsor Does Not Desire Power and

Energy. If a non-Federal sponsor provides funds for a new Federal hydroelectric power project and does not want Federal hydroelectric power and energy, the Administrator shall allocate the marketable power and energy in accordance with the factors set forth in Section I, above.

Issued in Tulsa, Oklahoma, July 27, 1987.

Ronald H. Wilkerson,

Administrator, Southerwestern Power Administration.

[FR Doc. 87-18300 Filed 8-11-87; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Fifth Meeting of the National Public Safety Planning Advisory Committee

The fifth meeting of the National Public Safety Planning Advisory Committee will be held on August 26, 1987, in Room 308 of the Baltimore Convention Center located at 1 West Pratt Street, Baltimore, Maryland. The meeting will start at 9:30 a.m.

All interested parties are invited to attend the meeting. Since this is a technical advisory committee, attendees should be prepared for technical discussions.

The agenda for the fifth meeting will consist of:

1. Approval of the minutes of the last meeting;
2. Status reports from the Chariman and from the Task Group Facilitators;
3. Discussion of emergency medical services;
4. Review and approval of the Final Report.

Any questions regarding the meeting should be directed to Mr. William R. Torak at (202) 632-7025.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-18262 Filed 8-11-87; 8:45 am]

BILLING CODE 6712-01-M

[Report No. W-20]

Window Notice for the Filing of FM Broadcast Applications

Release: July 31, 1987.

Notice is hereby given that applications for vacant FM broadcast allotment(s) listd below may be submitted for filing during the period beginning July 31, 1987 and ending September 10, 1987 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process.

Due to the large number of cities allocated under Channel 290 only a portion of the cities are listed in this Notice. A second Public Notice issued this date (Report No. 21) lists the remaining cities giving them a separate closing date.

City	State
Channel 290 A:	
Winfield	AL
Paradise Valley	AZ
Lewes	DE
Englewood	FL
Dock Junction*	GA
Lakeland	GA
Mahomet	IL
Marshall	IL
Whitley City	KY
Berwick	LA
Opelousas	LA
Ava	MO
Channel 290 C:	
Honolulu	HI

* Formerly ARCO, GA.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-18263 Filed 8-11-87; 8:45 am]

BILLING CODE 6712-01-M

[Report No. W-21]

Window Notice for the Filing of FM Broadcast Applications

Release: July 31, 1987.

Notice is hereby given that applications for vacant FM broadcast allotment(s) listed below may be submitted for filing during the period beginning July 31, 1987 and ending September 18, 1987 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process.

Due to the large number of cities allocated under Channel 290 only a portion of the cities are listed in this Notice. A second Public Notice issued this date (Report No. 20) lists the remaining cities giving them a separate closing date.

City	State
Channel 290 A:	
Omaha	NE
Rochester	NY
Syracuse	NY
Philipsburg	PA
Loris	SC
St. Stephen	SC
San Diego	TX
Stanton	TX
Lynchburg	VA
Evansville	WI

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-18264 Filed 8-11-87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-287; File Nos. BPH-850712 RC et al.]

Applications for Consolidated Hearing; Brenda R. Tanger et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
A. Brenda R. Tanger, Kaneohe, HI	BPH-850712RC87-287.	
B. FM Kaneohe Limited Partnership, Kaneohe, HI.	BPH-850712RE	
C. Kaneohe Radio, Kaneohe, HI.	BPH-850712RG	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading, Applicant(s)

1. Environmental Impact, B, C
2. Comparative, A-C
3. Ultimate, A-C

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M

Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–18338 Filed 8–11–87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87–289; File Nos. BPCT–861105KP et al.]

Applications for Consolidated Hearing; Harry J. Turner et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, City, and State	File No.	MM Docket No.
A. Harry J. Turner, Ashland, KY.	BPCT–861105KP	87–289
B. Calvin Ross, Ashland, KY.	BPCT/861105KU	
C. Video Images Productions, Inc., Ashland, KY.	BPCT–870121KM	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading, Applicant(s)

Site Availability, A, B
Comparative, A, B, C
Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Stephen F. Sewell,

Assistant Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87–18339 Filed 8–11–87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87–288; File Nos. BPH–860203 MH]

Applications for Consolidated Hearing; Nirvana Radio Broadcasting Corp. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station.

Applicant, City and State	File No.	MM Docket No.
A. Nirvana Radio Broadcasting Corporation, Christiansburg, VA.	BPH–860203MH	87–288
B. Hartke Communications, Corp., Christiansburg, VA.	BPH–860203MI	
C. Jane A. Filler d/b/a Christiansburg Radio [sic], Christiansburg, VA.	BPH–860203MJ	
D. Gerald Wayne Gallimore, Christiansburg, VA.	BPH–860203ML	
E. Kenneth Clyde Hill, Christiansburg, VA.	BPH–860203MM	
F. Public Radio of Christiansburg, Virginia, Christiansburg, VA.	BPH–860203MN	
G. Valley Radio Corp., Christiansburg, VA.	BPH–860203PC	
H. Augustine D. Henderson d/b/a Christiansburg Media, Christiansburg, VA.	BPH–860203MK	Dismissed.

2. Pursuant to 47 U.S.C. 309(e), the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading, Applicants

1. Financial Qualifications, G
2. Environmental, G
3. Main Studio, D
4. Comparative, A–G
5. Ultimate, A–G

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–18336 Filed 8–11–87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87–291; File Nos. BPCT–861223KL, et al.]

Applications for Consolidated Hearing; Roy Dudley Steed, Jr., et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, City and State	File No.	MM Docket No.
A. Ray Dudley Steed, Jr., d/b/a Steed Broadcasting, Jamestown, ND.	BPCT–861223KL	87–291
B. Baxter Broadcasting Corp., Jamestown, ND.	BPCT–870327KJ	
C. Red River Broadcast Corp., Jamestown, ND.	BPCT–870330KV	
D. John J. Garofalo d/b/a Skyway Television, Ltd., Jamestown, ND.	BPCT–870331LL	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading, Applicant(s)

1. Minimum Separation, A, D
2. Environmental Impact, B, D
3. Air Hazard, A, B, C, D
4. Satellite, B, C
5. Comparative, A, B, C, D
6. Ultimate, A, B, C, D

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Stephen F. Sewell,

Assistant Chief, Video Service Division, Mass Media Bureau.

[FR Doc. 87–18337 Filed 8–11–87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87-286; File Nos. BPH-850712 QR et al.]

Applications for Consolidated Hearing; the Johns Hopkins Broadcasting Foundation Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
A. The Johns Hopkins Broadcasting Foundation Inc., Hurlock, MD.	BPH-850712QR	87-286
B. Muir Corp., Hurlock, MD	BPH-850712QS	
C. Benson Broadcasting Co., Hurlock, MD.	BPH-850712QU	
D. EZ101, Inc., Hurlock, MD.	BPH-850712QV	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading, Applicant(s)

1. Comparative, A, B, C, D
2. Ultimate, A, B, C, D

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-18335 Filed 8-11-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0177
Title: Local Level Civil Rights Compliance Checklist
Abstract: Needed to access compliance with civil-rights statutes. Covers: warning and communications; evacuation and shelter; and emergency operating centers. Will provide inventory of accomplishments and deficiencies, enabling FEMA to offer technical assistance where appropriate.
Type of Responsents: State or local governments
Number of Respondents: 900
Burden Hours: 1,800
Frequency of Recordkeeping or Reporting: On occasion

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street, SW., Washington, DC 20472.

Comments should be directed to Francine Picoult, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Dated: August 7, 1987.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 87-18295 Filed 8-11-87; 8:45 am]

BILLING CODE 6718-01-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extensionb of 3067-0175
Title: National Community Volunteer Fire Prevention Program—Partnerships Against Fire
Abstract: The thirty invited participating States and three to five State selected local organizations are awarded grants to develop locally appropriate demonstration project fire prevention programs which can be transferred and/or replicated in other communities. Grantees must complete budget forms and narrative of program plans for both application and progress reports. Program is managed by a contractor who receives applications and reports submitted through Governor's Offices.
Type of Respondents: State or local governments, Non-profit institutions
Number of Respondents: 100
Burden Hours: 9,500
Frequency of Recordkeeping or Reporting: Quarterly, Annually

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street SW., Washington, DC 20472.

Comments should be directed to Francine Picoult, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Dated: August 7, 1987.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 87-18296 Filed 8-11-87; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Item Submitted for OMB Review

The Federal Maritime Commission hereby gives notice that the following item has been submitted to OMB for review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3601, et. seq.). Requests for information, including copies of the collection of information and supporting documentation, may be obtained from John Robert Ewers, Director, Bureau of Administration, Federal Maritime Commission, 1100 L Street, NW., Room 12211, Washington, DC 20573, telephone number (202) 523-5866. Comments may be submitted to the agency and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Federal Maritime Commission, within 15 days after the date of the **Federal Register** in which this notice appears.

Summary of Item Submitted for OMB Review

46 CFR Part 530

FMC requests extension of clearance for 46 CFR Part 530 which provides procedures to encourage the expeditious processing by terminals of trucks laden with cargo for vessels to reduce congestion and delay in the Port of New York. The Commission estimates a respondent universe of 10 with an estimated 10 annual responses and 20 manhour burden. Total cost to the Federal Government is estimated at

$115; total cost to respondents is estimated at $308.

Joseph C. Polking,

Secretary.

[FR Doc. 87-18341 Filed 8-11-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Company Engaged in Nonbanking Activities; First National Cincinnati Corp.

The organization listed in this notice has applied under § 225.23 (a) or (f) of the Board's Regulation Y (12 CFR 225.23 (a) 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. 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 September 4, 1987.

A. **Federal Reserve Bank of Cleveland** (Martin E. Abrams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First National Cincinnati Corporation*, Cincinnati, Ohio; to acquire 100 percent of the voting shares of Leshner Financial, Inc., Cincinnati, Ohio, to be renamed Center Capital Group, Inc., Cincinnati, Ohio.

Applicant proposes to engage in the following nonbanking activities through the acquisition of Leshner and its wholly-owned subsidiaries, Midwest Advisory Services, Inc. ("MAS"); MGF Service Corp. ("MGF"); Fourth Street Capital Corporation ("FSCC"); and Robert H. Leshner & Co., Inc. ("RHL"), and its 50 percent owned subsidiary, Financial Independence Trust Advisors, Inc. ("FITA"), all of Cincinnati, Ohio, pursuant to section 4(c)(8) of the Bank Holding Company Act.

Applicant proposes: (1) To provide investment advisory services through MAS and FITA to investment companies pursuant to § 225.25(b)(4)(ii) of the Board's Regulation Y; (2) to provide registrar and transfer agent services, including certain incidental administrative and shareholder services, to investment companies through MAS and MGF pursuant to §§ 225.25(b)(3) and 225.25(b)(4)(ii) of the Board's Regulation Y; (3) to provide securities brokerage services through RHL pursuant to § 225.25(b)(15) of the Board's Regulation Y; (4) to provide portfolio investment advice and securities brokerage on a combined basis through RHL to certain "institutional investors" pursuant to the Board of Governors' Order, *National Westminister Bank PLC*, 72 Federal Reserve Bulletin 584 (1986); and, (5) to engage in permissible trust activities through FSCC pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Applicant proposes to conduct these activities throughout the United States.

Board of Governors of the Federal Reserve System, August 6, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-18269 Filed 8-11-87; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; First Paxton Bancorp, Inc., 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 apP*.....END OF BAD MAG TAPE BLOCK*uffice 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 September 4, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Paxton Bancorp, Inc.*, Paxton, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Paxton, Paxton, Illinois.

2. *Westbank Financial Corporation*, Naperville, Illinois; to acquire 100 percent of the voting shares of First Channahon Bancorp, Inc., Channahon, Illinois; thereby indirectly acquire First Bank of Channahon, Channahon, Illinois.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Bancorp Hawaii, Inc.*, Honolulu, Hawaii; to acquire 100 percent of the voting shares of First National Bank of Arizona, Phoenix, Arizona.

Board of Governors of the Federal Reserve System, August 6, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-18270 Filed 8-11-87; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Company Engaged in Permissable Nonbanking Activities; Hong Kong and Shanghai Banking Corp.; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 87-17018) published at page 28192 of the issue for Tuesday, July 28, 1987.

Under the Federal Reserve Bank of New York, the entry for the Hong Kong and Shanghai Banking Corporation is revised to read as follows:

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Hong Kong and Shanghai Banking Corporation*, Hong Kong; to acquire Ingersoll-Rand Financial Corporation, Woodcliff, New Jersey, and thereby indirectly engage in commercial

financing, real estate lending and equipment leasing pursuant to § 225.25 (b)(1) and (b)(5) of the Board's Regulation Y.

Comments on this application must be received by August 20, 1987.

Board of Governors of the Federal Reserve System, August 6, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-18271 Filed 8-11-87; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Shares of Banks or Bank Holding Companies; John E. Wertin

The notificant listed below has 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 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 September 3, 1987.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *John E. Wertin*, Irvine California; to acquire 80.4 percent of the voting shares of San Clemente Bancorp, San Clemente, California; and thereby indirectly acquire The Bank of San Clemente, San Clemente, California.

Board of Governors of the Federal Reserve System, August 6, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-18272 Filed 8-11-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Proposed Collection of Fees for Sanitation Inspections of Cruise Ships; Extension of Comment Period

A notice of request for public comment on a proposal for collection of fees for vessel sanitation inspections by the Centers for Disease Control (CDC) was published in the **Federal Register** on Friday, July 17, 1987 (52 FR 27060). The notice is amended as follows to extend the comment period:

On page 27060, second column, "**DATE:**" is amended to read: "Comments must be received on or before September 18, 1987."

All other information and requirements in the notice remain the same.

Dated: August 6, 1987.

Glenda S. Cowart,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 87-18242 Filed 8-11-87; 8:45 am]

BILLING CODE 4160-18-M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), **Federal Register**, Vol. 49, No. 164, pg. 33343, dated Wednesday, August 22, 1984 and **Federal Register**, Vol. 49, No. 228, pg. 46502, dated Monday, November 26, 1984) is amended to reflect the title change of the divisions in the Office of the Actuary (OACT), Office of the Associate Administrator for Management and Support Services. The organizational nomenclature of the OACT divisions is elevated to offices and each office contains a two division substructure. This change places OACT's structure at an equivalent level with other HCFA components.

The specific amendment to Part F. is described below:

- Section FH.20.B.1., the Division of Medicare Cost Estimates (FHG1), Section FH.20.B.2, the Division of Medicaid Cost Estimates (FHG2), and Section FH.20.B.3., the Division of National Cost Estimates (FHG3) are deleted in their entirety and replaced with the following:

1. Office of Medicare Cost Estimates (FHG1)

Evaluates operations of the Medicare trust funds concerning income and outgo and the necessary tax rates for program solvency. Prepares cost estimates for the Hospital Insurance program and the Supplementary Medical Insurance program for use in the President's budget. Develops such variables as the Part B premium rate, the inpatient deductible, the Part A premium rate for voluntary enrollees, and the physicians' economic index applicable to prevailing fees. Develops the payment rates for the annual update of the adjusted average per capita cost (AAPCC) ratebook, which is used to pay health maintenance organizations that enter into a risk contract with HCFA to provide benefits to Medicare enrollees. Computes workload estimates of the impact of modifications in program benefits and financing. Serves as technical consultants throughout the Government on Medicare cost estimate issues.

a. Division of Hospital Insurance (FHG11)

Evaluates operations of the Medicare hospital insurance trust fund concerning income and outgo and the necessary tax rates for program solvency. Prepares cost estimates for the Hospital Insurance (HI) program for use in the President's budget. Develops such variables as the Part A impatient deductible and the Part A premium rate for voluntary enrollees. Computes workload estimates of the impact of modifications in program benefits and financing. Serves as technical consultants throughout the Government on Medicare HI cost estimate issues.

b. Division of Supplementary Medical Insurance (FHG12)

Evaluates operations of the Medicare supplementary medical insurance trust fund concerning income and outgo and the necessary premium and actuarial rates for program solvency. Prepares cost estimates for the Supplementary Medical Insurance (SMI) program for use in the President's budget. Develops such variables as the Part B premium rate and the physicians' economic index applicable to prevailing fees. Computes workload estimates of the impact of modifications in program benefits and fiancing. Serves as technical consultants throughout the Government on Medicare SMI cost estimate issues.

2. Office of Medicaid Estimates and Statistics (FHG2)

Provides cost estimates of the Medicaid program and any proposed legislative changes in the program. Creates and maintains a State-by-State data base relating to the low income population, their health use, and incurred and expected costs. Develops descriptive information detailing and projecting the effect of changes in the economy or national health care system on the Medicaid program. Develops annual Medicaid program budget requirements for the President's budget preparation and presentation, including

the Congressional justification. Prepares long-range program cost estimates, determines gross rates of program cost changes, and revises data requirements for future program costs. Prepares cost estimates for legislative and regulatory proposals affecting Medicaid benefits. Provides actuarial and statistical consultation to other HCFA components, States, or outside organizations. Develops and publishes routine descriptive Medicaid statistical information. Designs and maintains a system containing information about State Medicaid Plan characteristics. Designs and develops the computerized mechanism for collecting person-based Medicaid data used for answering inquiries about Medicaid where disaggregated data is required.

a. Division of Medicaid Cost-Estimates (FHG21)

Provides cost estimates for the Medicaid program including the development of cost estimates for proposed changes in Medicaid or in programs affecting Medicaid and overall costs for years after the current budget year. Develops forecasts of Medicaid expenditures for incorporation into the HCFA budget development process. Studies approaches and research techniques to assist in the development of program forecasts. Compiles data sources for Medicaid cost estimates including current and historical statistics on recipients, eligibles, costs, and demographic characteristics of the Medicaid population and the potential eligible Medicaid population. Provides actuarial consultation to other components of HCFA concerning various proposals and programs affecting the future of the Medicaid program. Provides actuarial consultation to other organizations in the development of computerized data on the Medicaid program. Provides quantitative estimates of the effects of human behavior on the proposed changes in the Medicaid program through the analysis of basic behavioral phenomena.

b. Division of Medicaid Statistics (FHG22)

Collects annual (HCFA-2082) Medicaid program statistical reports for State Medicaid agencies. Works with State Medicaid agencies to correct errors and collect missing information. Conducts consistency checks across data bases to verify the validity of submitted data and makes corrections to current and historical data to produce statistics. Publishes annual Medicaid statistics in various HCFA publication series and produces statistical tables for use by HCFA managers in administering the Medicaid program. Collects special project statistics. (I.E., Early and periodic Screening, Diagnosis, and Treatment and sterilization) to be used by HCFA personnel to administer or monitor special Medicaid programs. Responds to Medicaid data requests from HCFA staff, other agencies in the Department of Health and Human Services, the Executive Office of Management and Budget, members of Congress, other Federal departments, State agencies, public and private higher education institutions and individual researchers. Provides statistical consultation to other components of HCFA concerning the Medicaid program. Designs and develops the computerized mechanisms for collecting person-based Medicaid data. Collects individual eligibility, provider, and claims data from State automated-data systems. Processes these data to verify accuracy of the data consistent with development standards. Provides technical assistance to the States in the development and submittal of these data and maintains ongoing contact with States agencies to maintain a high quality of data submitted. Designs, develops, and maintains a system for computerizing and making available to all components the Medicaid program characteristics data contained in State Medicaid Plans. Designs and develops computer systems to utilize the data collected for statistical and actuarial purposes. Provides technical assistance to other components of HCFA in the development and use of these statistical data as they relate to specific program areas.

3. Office of National Cost Estimates (FHG3)

Monitors prices, utilization, and costs of health care and analyzes their impact on HCFA programs and the implication for the national economy. Develops and conducts studies to estimate, project, and analyze national and State health expenditures and the financial and enrollment experience of private health insurance. Prepares cost estimates of proposed national health initiatives by applying a highly technical multidisciplinary approach. Synthesizes the results of economic and actuarial studies relating to estimating factors such as the interaction between supply and demand or the influences of cost sharing on costs. Develops and establishes methodologies of analyzing health care financing problems. Provides cost estimates for specific health area such as capital, technology, and malpractice. provides technical microanalyses for Administration or Department initiatives (such as prospective payment and cost containment) in response to requests from Congressional members, Governors, and health provider groups which includes calculating the economic effect of the proposal on the health industry, determining growth in health expenditures, and determining cost shifts between providers.

a. Division of Economic and Actuarial Analysis (FHG34)

Conducts economic and actuarial analyses, forecasting, and interpretations of health expenditures, health projections hospital prospective payments, and other Office initiatives. Provides analyses of the past, forecasting the future, and understanding of the distribution and consumption of health care. Conducts demographic studies of populations, both insured and uninsured, for health, prepares both short-range and long-range projections of national health expenditures, and develops and utilizes actuarial as well as micro- and macro-economic methodologies for Office initiatives, such as the creation of input price indices, supporting prospective payment regulatory requirements, and studying age and State distributions of health expenditures.

b. Division of Statistical Analysis (FHG35)

Develops and applies statistical methods, models, and techniques used in the analysis of health expenditures, health projections, hospital prospective payments, and other Office initiatives. Designs statistical data bases and statistical software systems to access, retrieve, and process needed data to support cross-sectional analyses, time series analyses, forecasting, and projections. Creates and applies statistical models and methods needed for economic and actuarial studies of hospital case-mix, hospital reimbursement distributional impacts, health expenditure projections, national health accounts, hospital market baskets, private health insurance, and other Office initiatives, as needed.

Dated: July 15, 1987.

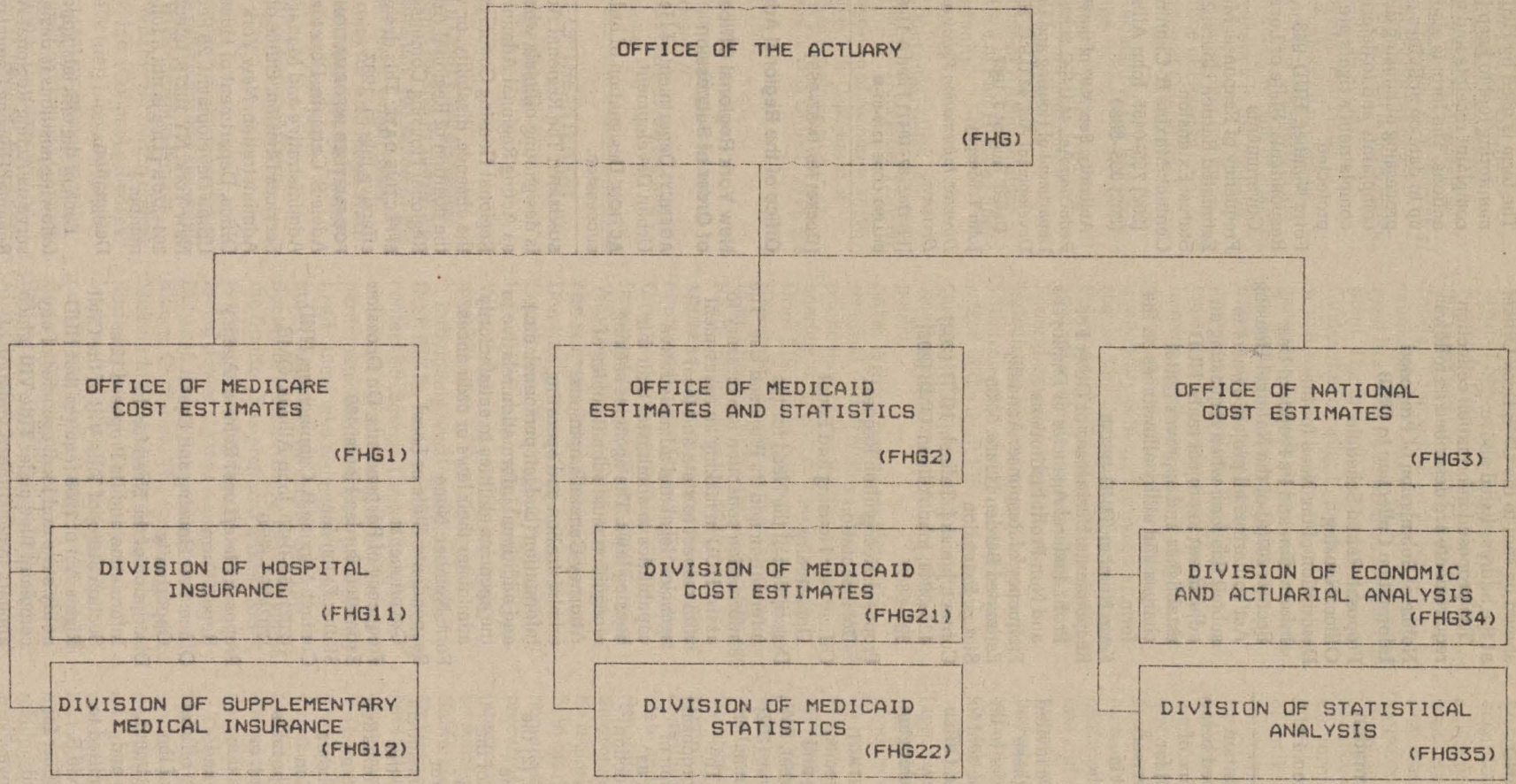
William L. Roper,

Administrator, Health Care Financing Administration.

BILLING CODE 4120-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION
ASSOCIATE ADMINISTRATOR FOR MANAGEMENT AND SUPPORT SERVICES
OFFICE OF THE ACTUARY

APPROVAL DATE: 07/15/87



[FR Doc. 87-18127 Filed 8-11-87; 8:45 am]
BILLING CODE 4120-01-C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-87-1721]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Exectutive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone, (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission; (8) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Rental Schedule
Office: Housing
Description of the Need for the Information and Its Proposed Use: Section 207(a) of the National Housing Act authorizes all project owners to submit this form when requesting an adjustment to project rents. HUD establishes and approves rental charges and utility allowances on the form.
Form Number: HUD-92458
Respondents: Businesses or Other For-Profit, Federal Agencies or Employees, and Non-Profit Institutions
Frequency of Response: Annually
Estimated Burden Hours: 5,333
Status: Extension
Contact: James J. Tahash, HUD, (202) 426-3944, John Allison, OMB (202) 395-6880

Proposal: Recognition Request Documentation
Office: Fair Housing and Equal Opportunity
Description of the Need for the Information and Its Proposed Use: The information collection is necessary to assist HUD in making an assessment with respect to state and local agencies' legal and administrative capabilities to administer their fair housing laws. The agencies seeking recognition must submit copies of Attorney General's opinions, administration and operating information (budget, personnel, etc.), and additional information relative to the agencies abilities to satisfactorily administer their laws or ordinances.
Form Number: None
Respondents: State or Local Governments
Frequency of Respondents: On Occasion
Estimated Burden Hours: 480
Status: Extension
Contact: Maxine B. Cunningham, HUD (202) 755-0455, John Allison, OMB, (202) 395-6880

Proposal: State/Local Referral Agency Report Form
Office: Fair Housing and Equal Opportunity
Discription of the Need for the Information and Its Proposed Use: Section 810(c) of Title VIII of the Civil Rights Act of 1968 requires that HUD notify state and local agencies of any complaint filed under Title VIII which appears to constitute a violation of such state and local law or ordinance. The form is used by HUD as a monitoring tool to keep track of complaint receipts and milestone actions. The form is also used to keep up to date on activities relative to the processing of housing discrimination complaints and to determine if the complainant's rights are being protected.
Form Number: HUD-948
Respondents: State or Local Governments
Frequency of Response: Monthly
Estimated Burden Hours: 2,750
Status: Extension
Contact: Maxine B. Cunningham, HUD (202) 755-0455, John Allison, OMB, (202) 395-6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 3, 1987.

John T. Murphy,

Director, Information Policy and Management Division.

[FR Doc. 87-18411 Filed 8-11-87; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. D-87-855]

Office of the Regional Administrator

New York Regional Office; Designation of Order of Succession

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of order of succession.

SUMMARY: The Regional Administrator is designating officials who may serve as Acting Regional Administrator/Regional Housing Commissioner during the absence, disability, or vacancy in the position of Regional Administrator/Regional Housing Commissioner.

EFFECTIVE DATE: This designation is effective July 31, 1987.

FOR FURTHER INFORMATION CONTACT: Adele S. Germain, Director, Administrative and Management Services Division, Office of Administration, New York Regional Office, Department of Housing and Urban Development, 26 Federal Plaza, New York, NY 10278, telephone (212) 264-2761. (This is not a toll-free number.)

Designation

Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator/Regional Housing Commissioner during the absence, disability, or vacancy in

the position of the Regional Administrator/Regional Housing Commissioner, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator/Regional Housing Commissioner: Provided, that no official is authorized to serve as Acting Regional Administrator/Regional Housing Commissioner unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Regional Administrator
2. Director, Office of Housing
3. Director, Office of Operational Support
4. Executive Assistant to the Regional Administrator
5. Director, Office of Public Housing
6. Director, Office of Community Planning and Development
7. Director, Office of Administration
8. Director, Office of Fair Housing and Equal Opportunity
9. Regional Counsel

This designation supersedes the designation effective December 17, 1986.

Authority: Delegation of Authority, 27 FR 4319 (1962); Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); and Interim Order II, 31 FR 815 (1966).

Dated: July 31, 1987.

Joseph D. Monticciolo,

Regional Administrator/Regional Housing Commissioner, Region II.

[FR Doc. 87-18412 Filed 8-11-87; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DEIS 87-22]

Availability of a Draft Environmental Impact Statement for the Proposal To Lease Approximately 103 Acres of the Cabazon Indian Reservation (Near Mecca, California) for a 45 Mega Watt (MW) Biomass Fueled Electric Power Plant in Riverside County, CA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Draft Environmental Impact Statement is available for public review. Colmac Energy, Inc. (Colmac) proposes to build a 35 MW (net) biomass fueled electric power plant on approximately 103 acres of leased land on the Cabazon Indian Reservation. The plant will be located adjacent to State Highway 111 and the Southern Pacific Railroad mainline about one mile north of the town of Mecca in south central Riverside County, California. Fuel for the plant will consist of agricultural residue, commercial wood wastes, and municipal tree trimmings. No garbage or used tires will be utilized as fuel for the plant. The fuel will be combusted in a fluidized bed boiler to produce steam which will drive a conventional turbine-generator. Electric power will be sold to the Southern California Edison Utility under a power sales agreement. The project will provide offsets for air emissions by eliminating open field burning now being used to dispose of agriculture residues. This notice of availability is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1502.19) to obtain the comments of Federal agencies which have jurisdiction by law, or special expertise with respect to environmental issues raised in the draft EIS, and to request comments from appropriate state and local agencies and members of the public.

DATE: Written comments should be received within 60 days from the date of publication of this notice. A public hearing to receive comments on the Draft EIS will be held on Thrusday, September 10, 1987, at the Cabazon Indian Reservation, 84245 Indian Springs Road, Indio, California 92201.

ADDRESS: Written comments should be addressed to Mr. Maurice Babby, Area Director, Sacramento Area Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Don Knapp, Area Environmental Coordinator, Sacramento Area Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. (916) 978-4703 or FTS 460-4703.

Individuals wishing copies of this Draft EIS for review should immediately contact Mr. Knapp. Copies have been sent to all agencies and individuals who participated in the scoping process and to all others who requested copies.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs, Department of the Interior, has prepared a Draft EIS concerning construction of a biomass fueled power plant at a stie on the Cabazon Indian Reservation near Mecca, California. The Cabazon Band of Mission Indians, acting through its Business Council, has entered into a lease with Colmac for this purpose, pursuant to a tribal resolution passed in August 1986. Such leases are subject to BIA approval (25 U.S.C. section 415). Also, BIA must finally approve construction of the facility before it may be constructed and operated in accordance with the terms of the lease.

The proposed facility would be located on the Cabazon Indian Reservation, east of State Highway 111, approximately 10 miles southeast of Conchella and about one mile northwest of Mecca in Riverside County, California. The plant would convert approximately 400,000 wet tons per year of truck delivered biomass fuel (tree trimmings, orchard prunings, date palm fronds, grasses, ferns, straws, and commercial wood wastes) into approximately 45 (net) MW of electricity. The electricity will be sold to the Southern California Electric Utility pursuant to an existing power sale contract. An existing 92 kV transmission line and two proposed 115 kV transmission lines owned by the Imperial Irrigation District will be used to interconnect with the Southern California Edison Grid.

The plant's water requirements (approximately 1,100 acre feet per year) would be obtained from on site groundwater wells. Wastewater would be treated on-site and utilized for on-site, non-potable domestic use, dust suppression and possible landscape irrigation. Treatment and disposal will be in accordance with state and local requirements, including those of the Colorado River Basin Water Quality Control Board. Air emissions will be controlled in accordance with Federal, state and regional air quality standards. Separate approval from the Environmental Protection Agency will be required. The plant will utilize open field burning credits to offset all emitted non-attainment air pollutants and their precursors. Ash produced by the plant (approximately 20,000 tons per year) will be managed in accordance with California Department of Health Services procedures and will either be land filled or used as an agricultural soil amendment.

The proposed action will improve and diversify the economic base of the Cabazon Band of Mission Indians. The project also add to long term renewable energy supplies in California, and decrease reliance upon imported oil.

This action will result in increased truck traffic in the immediate area, and as a new source of air emissions from the plant itself. However, the non-attainment pollutants (and their precursors) emitted by the plant would be totally offset through elimination of open field turning of agriculture residues. The project would generate 20,000 tons per year of ash, but would substantially reduce demands on

landfills created by the current practice of the disposal of wood wastes.

The principal alternatives analyzed in the Draft EIS are to build the project as planned, build a smaller project, or not to build the project.

Other Government agencies and members of the public contributed to the planning and evaluation of this proposal and to the preparation of this Draft EIS. The Notice of Intent to prepare this EIS was published in the September 12, 1986, **Federal Register.** A public scoping meeting was held on September 10, 1986. Written comments were also solicited from a large number of local, state and Federal agencies by newspaper notices published on October 21–23, 1986, and by letters transmitted on or about October 17, 1986. An informal interagency workshop was held on March 12, 1987, in Riverside, California.

Agencies and individuals are urged to provide comments on this Draft EIS as soon as possible. All comments received by the dates given above will be considered in preparation of the Final EIS for this proposed action.

Dated: August 7, 1987.

Hazel E. Elbert,

Acting Assistant Secretary; Indian Affairs.

[FR Doc. 87–18357 Filed 8–11–87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[WY-040-07-4111-09]

Availability of Draft Environmental Impact Statement; Fremont and Teton Counties, WY

AGENCY: Bureau of Land Management (BLM) and U.S. Forest Service (FS), Interior.

ACTION: Public notice of the availability of the Draft Environmental Impact Statement (DEIS) for the Sohare Creek Unit Exploratory Oil Well, Fremont and Teton Counties, Wyoming.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the BLM and FS have prepared, as cooperating agencies, a DEIS for the proposed Sohare Creek Unit Exploratory Oil Well. The well is proposed by Amoco Production Company and would be located in a roadless area in section 35, T.43N., R.112W., about 45 miles northeast of Jackson, Wyoming, in Teton County. The proposal would include construction of an access road and well pad, drilling the well, and if commercial quantities of oil are discovered, installation of production facilities.

DATES: A public hearing on the DEIS will be held beginning at 7 p.m. on Wednesday, September 2, 1987, at the following location:

Americana Snow King Resort, 400 E. Snow King Drive, Jackson, Wyoming 83001

ADDRESSES: Copies of the DEIS and associated technical reports will be available to the public for review on request at the addresses listed below on or about August 12, 1987.

Bureau of Land Management, Rock Springs District Office, P.O. Box 1869, Rock Springs, Wyoming 82902–1869, Phone: (307) 382–5350

U.S. Forest Service, Bridger-Teton National Forest, P.O. Box 1888, Jackson, Wyoming 83001, Phone: (307) 733–2752

FOR FURTHER INFORMATION CONTACT: Comments or questions on the DEIS should be addressed to:

Mr. Alfred Reuter, Sohare Creek Project Leader, Bridger-Teton National Forest, P.O. Box 1688, Jackson, Wyoming 83001, Phone: (307) 733–4755

The end of the DEIS review period is Wednesday, October 12, 1987.

SUPPLEMENTARY INFORMATION: The Draft EIS analyzes potential impacts from a proposed exploratory well to be drilled in Northwestern Wyoming by Amoco Production Company. The DEIS focuses on the impacts of drilling an exploratory well, including the construction and operation of a well pad and access road in Teton County. Access routes to be analyzed include, Kettle Creek in the north, and four other access alternatives including two helicopter alternatives, and the No Action Alternative

The DEIS focuses on issues and concerns identified during the public scoping process: socioeconomics, recreation, wildlife values, visual resources, soil and water resources. An Agency Preferred Alternative has not yet been identified.

Hillary A. Oden,

State Director.

[FR Doc. 87–18148 Filed 8–11–87; 8:45 am]

BILLING CODE 4310-22-M

[UT-020-07-4212-09-2411]

Intent To Prepare an Environmental Impact Statement; Salt Lake District; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) intends to prepare an Environmental Impact Statement (EIS) for a proposal to construct a hazardous waste storage, transfer and treatment facility in Tooele County, Utah. Although the facility is proposed to be located on private land (T. 1 S., R. 10 W.), the transportation and utilities corridors would cross Federal land. It has been determined that the granting of proposed rights-of-way and land exchange actions for the project would constitute a major Federal action requiring the preparation of an EIS pursuant to the National Environmental Policy Act of 1969 (NEPA) and the Council on Environmental Quality (CEQ) regulations.

The EIS will analyze the environmental impact of constructing and operating a facility at the proposed site and at alternative sites currently identified as T. 1 N., R. 9 W., and T. 1 S., R. 11 W. A No Action alternative will also be analyzed. All sites would involve consideration of Federal rights-of-way and Federal land exchanges. The State of Utah, Tooele County, and the Environmental Protection Agency would be involved in permitting other aspects of the facility.

The Salt Lake District of BLM will hold two public meetings to receive input for the preparation of the EIS and to identify issues, concerns, and alternatives. The first meeting will be held on August 26, 1987, at the Senior Citizen Center, 120 South Center Street, Grantsville, Utah starting at 7:00 p.m. The second meeting will be held August 27, 1987, in the Department of Natural Resources auditorium, 1636 West North Temple, Salt Lake City, Utah, also starting at 7:00 p.m. For more information contact John Stephenson, Bureau of Land Management, Salt Lake District, 2370 South 2300 West, Salt Lake City, Utah 84119, telephone (801) 524–5348.

Deane H. Zeller,

Salt Lake District Manager.

[FR Doc. 87–18243 Filed 8–11–87; 8:45 am]

BILLING CODE 4310-DQ-M

[OR 39712; OR-943-07-4220-11: GP-07-248]

Conveyance of Public Land; Order Providing for Opening of Land; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 40 acres of public land out of Federal ownership. This action will also open 40 acres of reconveyed land to surface entry,

mining and mineral leasing, except oil and gas leasing.

EFFECTIVE DATE: September 18, 1987.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208 (Telephone 503–231–6905.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that in an exchange of lands made pursuant to section 206 of the Act of October 21, 1976, 90 Stat. 43 U.S.C. 1716, a patent has been issued transferring 40 acres of land in Jackson County, Oregon, from Federal to private ownership.

2. In the exchange, the following described land has been reconveyed to the United States.

Willamette Meridian

T. 34 S., R. 1 E.,
Sec. 10, NW¼SW¼.

The area described contains 40 acres in Jackson County.

3. The oil and gas deposits in the land described in paragraph 2 are not in United States ownership and will not be opened to operation of the mineral leasing laws as to oil and gas.

4. At 8:30 a.m., on September 18, 1987, the land described in paragraph 2 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on September 18, 1987, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

5. At 8:30 a.m., on September 18, 1987, the land described in paragraph 2 will be open to location and entry under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

6. At 8:30 a.m., on September 18, 1987, the land described in paragraph 2, except as provided in paragraph 3, will be open to applications and offers under the mineral leasing laws.

Dated: August 4, 1987.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87–18288 Filed 8–11–87; 8:45 am]

BILLING CODE 4310-33-M

[OR-37365; OR-943-07-4220-11: GP-07-215]

Conveyance of Public Land; Order Providing For Opening of Land; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 34.12 acres of public land out of Federal ownership. This action will also open approximately one acre of reconveyed land to surface entry and mineral leasing. The land remains closed to mining by an existing right-of-way reservation.

EFFECTIVE DATE: September 18, 1987.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208 (Telephone 503–231–6905).

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that in an exchange of lands made pursuant to section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, a patent has been issued transferring 34.12 acres of land in Coos County, Oregon, from Federal to private ownership.

2. In the exchange, the following described land has been reconveyed to the United States:

Willamette Meridian

T. 25 S., R. 13 W.,
Sec. 26, lots 4 to 16, inclusive, Block 30, Nasburg's Addition to Marshfield.

The area described contains approximately one acre in Coos County.

3. At 8:30 a.m., on September 18, 1987, the land described in paragraph 2 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on September 18, 1987, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

4. At 8:30 a.m., on September 18, 1987, the land described in paragraph 2 will be open to applications and offers under the mineral leasing laws.

Dated: August 4, 1987.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87–18289 Filed 8–11–87; 8:45 am]

BILLING CODE 4310-33-M

[ES-030-07-4212-11; ES-00157-012; ES-35927]

Realty Action; Recreation and Public Purposes Classification Land Classification for Recreation and Public Purposes, Ottertail County, MN

SUMMARY: The following described parcels have been classified as suitable for disposal to the North Central Camp Cherith, a non-profit organization, by conveyance pursuant to the provisions of the Recreation and Public Purposes Act of 1926 (44 Stat. 741) as amended (43 U.S.C. 869):

Fifth Principal Meridian, Minnesota

1. ES–35927, Ottertail County: T. 137 N., R. 41 W., Sec. 12, Lots 5 and 6, total of 5.57 acres.

The purpose of the conveyance is to provide additional recreation lands for the youth camp.

Any patent issued under this notice shall be subject to the provisions in 43 CFR 2741.8. In the event of noncompliance with the terms of the patent, title to the land shall revert to the United States.

Classification of this land will segregate it from all appropriation except as to applications under the mineral leasing laws and the Recreation and Public Purposes Act. This segregation will terminate upon issuance of a patent, or eighteen (18) months from the date of this Notice, or upon publication of a notice of termination.

Comments: For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to: District Manager, Milwaukee District Office, Bureau of Land Management, P.O. Box 631, Milwaukee, Wisconsin 53201–0631.

FOR FURTHER INFORMATION: Detailed information concerning this application is available for review at the Milwaukee District Office, Suite 225, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203, or by calling Larry Johnson at (414) 291–4413.

Bert Rodgers,

District Manager.

[FR Doc. 87–18293 Filed 8–11–87; 8:45 am]

BILLING CODE 4310-GJ-7-00157-012

[AZ-020-07-4212-12; A 20346-H]

Realty Action; Exchange of Public Lands, Maricopa County, AZ

BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership.

The following described public lands are being considered for disposal by exchange pursuant to Section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

T. 4 N., R. 1 E.,
Sec. 12, W½W½SW¼NW¼;
Sec. 23, W½NW¼NW¼SE¼, N½SW¼NW¼SE¼.
T. 5 N., 1 E.,
Sec. 23, N½N½NE¼;
Sec. 24, E½NW¼, NW¼NW¼, E½W½SW¼NW¼, E½SW¼NW¼;
Sec. 27, S½NE¼NE¼SW¼, W½NE¼SW¼, SE¼NE¼SW¼, W½SW¼, SE¼SW¼;
Sec. 28, SW¼NE¼;
Sec. 29, E½E½;
Sec. 30, S½NE¼NE¼, SE¼NE¼;
T. 4 N., R. 1 W.,
Sec. 1, Lots, 1, 2, S½NE¼, SE¼;
Sec. 12, NE¼, E½SE¼;
Sec. 13, E½NE¼;
Sec. 24, W½NW¼, SE¼NW¼, NW¼SW¼.
T. 5 N., R. 1 W.,
Sec. 12, Lots 1–4, W½E½, W½;
Sec. 13, Lots 1–4, W½NE¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 14, All;
Sec. 15, All;
Sec. 22, N½N½, SW¼NW¼.

Containing 4028.74 acres, more or less.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the public lands, as described in this Notice, from appropriation under the public land laws, including the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

James E. May,

Acting District Manager.

Dated: August 4, 1987.

[FR Doc. 87–18291 Filed 8–11–87; 8:45 am]

BILLING CODE 4310-32-M

[CO-050-4212-14; C-45633]

Realty Action; Park County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action C–45633, noncompetitive sale of public land in Park County, Colorado.

SUMMARY: The following described land has been examined and found suitable for direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, U.S.C. 1713), at not less than the appraised fair market value. The land will not be offered for sale until 60 days after the date of this notice.

Sixth Principal Meridian, Colorado

T. 9 S., R. 77 W.,
Sec. 20, E½SE¼SW¼, W½SW¼SE¼;
Sec. 29, NW¼NE¼.

Containing 80 acres.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, until a patent is issued or 270 days from the date of publication of this notice, whichever occurs first. The public land described is being considered for direct sale to Park County for use as part of a bobsled and luge facility proposed for construction and public use. The sale is consistent with the Royal Gorge Management Framework Plan because the tracts are difficult and uneconomic for management by the Bureau of Land Management or any other Federal department or agency.

DATE: Comment period is for up to and including September 28, 1987.

FOR FURTHER INFORMATION CONTACT: Interested parties may submit comments to the District Manager, Canon City District, Bureau of Land Management, 3170 East Main, P.O. Box 311, Canon City, CO 81212.

SUPPLEMENTARY INFORMATION: Objections will be reviewed and this realty action may be sustained, vacated, or modified. In the absence of any objection resulting in vacation or modification, this realty action will become the final determination of the Department of the Interior.

Donnie R. Sparks,

District Manager.

[FR Doc. 87–18292 Filed 8–11–87; 8:45 am]

BILLING CODE 4310-JB-M

[OR-39467; OR-943-07-4220-11: GP-07-263]

Conveyance of Public Land; Order Providing for Opening of Lands; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 80 acres of public land out of Federal ownership. This action will also open 923 acres of reconveyed lands to surface entry. A total of 400 acres will be opened to mining and mineral leasing. The mineral estate in the 523-acre balance was not conveyed to the United States.

EFFECTIVE DATE: September 18, 1987.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208 (Telephone 503–231–6905).

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that in an exchange of lands made pursuant to section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, a patent has been issued transferring 80 acres of land in Douglas County, Oregon, from Federal to private ownership.

2. In the exchange, the following described lands have been reconveyed to the United States:

Willamette Meridian

Parcel I

T. 21 S., R. 11 W.,
Sec. 31, that portion of lot 4 lying south of State Highway No. 38;
Sec. 32, lot 7 and those portions of lots 5, 6, and 8 lying south of State Highway No. 38;
Sec. 33, those portions of lot 7, S½SW¼, and SW¼SE¼ lying south of State Highway No. 38.
T. 22 S., R. 11 W.,
Sec. 4, N½NW¼NW¼ and N½N½NE¼NW¼;
Sec. 5, lot 1, NW¼NE¼, N½NW¼ and W½NW¼SW¼NW¼, and that portion of the SW¼NW¼ described as follows:

Beginning at the northeast corner of the SW¼NW¼ of Sec. 5, said point being where the southerly edge of a private road crosses the northerly edge of the SW¼NW¼ of Sec. 5; thence along the southerly edge of said private road, 25 feet South of the centerline of said private road, said centerline traverse

being South 62°53' West 236.0 feet; thence North 73°07' West 125.9 feet; thence North 80°49' West 314.4 feet; thence South 67°36' West 25 feet to a point intersecting a north and south quarter line of the SW¼NW¼ of Sec. 5; thence leaving said southerly edge, North 11 feet to the north line of the SW¼NW¼ of Sec. 5; thence East 660 feet to the point of beginning;

Sec. 6, SE¼NE¼, those portions of lots 1, 2, and 3, lying south of State Highway No. 38, and that portion of the SW¼NE¼ described as follows:

Beginning at the northeast corner of the SW¼NE¼ of Sec. 6; thence West along the northerly edge of said SW¼NE¼ of Sec. 6 to a point where it intersects the southerly edge of a private road, a distance of 805 feet; thence along the southerly edge of said private road, 25 feet South of the centerline of said private road, said centerline traverse being South 73°25' East 367.6 feet; thence North 79°46' East 185.3 feet; thence South 79°37' East 205.2 feet; thence 58°23' East 139 feet, more or less, to a point intersecting the easterly edge of the SW¼NE¼ of Sec. 6; thence leaving said southerly edge, North 163 feet to the point of beginning.

Parcel II

T. 22 S., R. 11 W.,

Sec. 3, lot 14 *Excepting Therefrom*, and being more particularly described as follows:

Beginning at the southwest corner of lot 14, Sec. 3; thence North along the west line of said lot 14, 550 feet; thence East parallel to the south line of said lot to the east boundary of said lot; thence Southerly along said east line to the southeast corner of said lot; thence West along the south line of said lot to the point of beginning;

Sec. 4, N½NE¼, S½N½NE¼NW¼, S½NE¼NW¼, S½NW¼NW¼, that portion of the NE¼SE¼ described as follows:

Beginning at an iron pin marking the east quarter corner of said Sec. 4; thence West along the north line of the SE¼ of said Sec. 4, a distance of 417.4 feet to the true point of beginning herein; thence continuing West along said north line, 911.4 feet, more or less, to a point making the southwest corner of the SE¼NE¼ of said Sec. 4; thence South along the west line of the NE¼SE¼ of said Sec. 4, a distance of 1320 feet, more or less, to the southwest corner of said NE¼SE¼; thence Northeasterly (North 34°37' East) a distance of 1604 feet, more or less, to the true point of beginning;

and the S½N½ *Excepting Therefrom* and being more particularly described as follows:

Beginning at the west quarter corner of Sec. 3, said point also being the northwest corner of lot 12 of said Sec. 3; thence North along the west line of said Sec. 3, 417.4 feet; thence West parallel with the south line of the NE¼ of Sec. 4, 417.4 feet; thence South parallel with the west line of said Sec. 3, to the east-west centerline of said Sec. 4; thence East along said centerline, 417.4 feet to the northeast corner of the NE¼SE¼ of said Sec. 4; thence North along the west line of said Sec. 3 to the point of beginning;

Sec. 5, lot 2 and SW¼NE¼;

Excepting from the above parcels any portion lying within State Highway No. 38, and Deans Creek County Road or any part deeded to the State of Oregon through Department of Transportation.

The areas described aggregate 923 acres in Douglas County.

3. At 8:30 a.m., on September 18, 1987, the lands described in paragraph 2 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on September 18, 1987, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

4. At 8:30 a.m., on September 18, 1987, the land described in Parcel II in paragraph 2 will be open to location and entry under this United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

5. At 8:30 a.m., on September 18, 1987, the land described in Parcel II in paragraph 2 will be open to applications and offers under the mineral leasing laws.

Dated: August 4, 1987

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-18290 Filed 8-11-87; 8:45 am]

BILLING CODE 4310-33-M

[AA-630-87-4112-02]

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau Clearance Officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-365-7340.

Title: 43 CFR 3160—Onshore Oil and Gas Operations, Non-form Items

Abstract: Federal and Indian (except Osage) oil and gas lessees and operators are required to retain and/or provide data so that proposed operations may be approved or compliance with granted approvals may be monitored.

Bureau Form Numbers: None.

Frequency: Nonrecurring.

Description of Respondents: Lessees and operators of Federal and Indian (except Osage) oil and gas leases.

Annual Responses: 191,980.

Annual Burden Hours: 93,585.

Bureau Clearance Officer: Richard Iovaine, 202-653-8853.

Dated: June 4, 1987.

George F. Brown,

Deputy Assistant Director, Energy and Mineral Resources.

[FR Doc. 87-18283 Filed 8-11-87; 8:45 am]

BILLING CODE 4310-87-M

[CA-020-07-4322-14]

Grazing Advisory Board Meeting and Tour; Susanville District, Susanville, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting and tour.

SUMMARY: Notice is hereby given that the Susanville District Grazing Advisory Board, created under the Secretary of the Interior's discretionary authority on May 14, 1986, will meet on September 14 and September 15, 1987.

The meeting on September 14 will begin at 1:00 p.m. at the Alturas Resource Area Office of the Bureau of Land Management, 120 South Main Street, Alturas, California. On September 15, the Board will tour portions of the Alturas Resource Area. The tour will leave from the front of the Alturas Resource Area Office at 8:00 a.m.

The agenda on September 15 will include an update on Nevada Water Rights, an update on the Wild Horse and Burro Program, an update on Range Improvements for FY88, a discussion of Wild Horse and Burro gathering by Helicopter for FY88, a report on the establishment of a Technical Review Team for the Twin Peaks deer winter

range and a discussion of other items as appropriate.

The tour on September 15 wil be of projects, management, and resource problems in the Alturas Resource Area. The tour will concentrate on the riparian resource and Juniper control. The tour is open to the public. Anyone wishing to make the tour should contact the Alturas Resource Area Office, phone number 916–233–4666, prior to September 11, 1987.

The meeting on September 14 is open to the public. Interested persons may make oral statements to the Board between 3:00 p.m. and 4:30 p.m. on September 14, 1987 or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California, 96130, by September 9, 1987. Depending upon the number of persons wishing to make oral statements, a per person time limit may be established.

Summary minutes of the board meeting will be maintained in the District Office, and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Robert J. Sherve,

Acting District Manager.

[FR Doc. 87–18284 Filed 8–11–87; 8:45 am]

BILLING CODE 4310–40–M

[NV–020–4322–02]

Winnemucca District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579 and Section 3, Executive Order 12548, February 14, 1986 that a meeting of the Winnemucca District Grazing Advisory Board will be held on September 15, 1987. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada 89445.

The agenda for the meeting will include:

1. Orientation/update of district rangeland management program by the District Manager.
2. Public Statements.
3. Grazing Fee Update.
4. Range Betterment (range improvement) funds: 1987 FY projects; 1988 FY projects.
5. Fire Rehabilitation Update.

The meeting is open to the public. Interested persons may make oral statements for the Board's consideration. Anyone wishing to make an oral statement should notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445 by September 1, 1987. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: August 3, 1987.

Frank C. Shields,

District Manager.

[FR Doc. 87–18285 Filed 8–11–87; 8:45 am]

BILLING CODE 4310–HC–M

Off-Road Vehicle Designation, Designation Order; Susanville District, Surprise Resource Area, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of off-road vehicle designation decisions.

Decision

Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under administration of the Bureau of Land Management are designated as open, limited, or closed to off-road motorized vehicle use.

The 769,000 acre area affected by the designation is the Surprise Resource Area of the Susanville District. Two planning units are involved, known as Cowhead/Massacre and Tuledad/Home Camp, which include all public land in the Resource Area. These designations are a result of resource management decisions made in the Management Framework Plans (1976 for Tuledad/Home Camp and 1981 for Cowhead/Massacre). Comments received from public meetings, workshops, and numerous written responses influenced the designation decisions. These decisions are published as final today. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals.

A. Open Designation

Area which is designated open comprises approximately 720,000 acres. Open designation was determined to be appropriate for all of Sub Units 2, 3, and 4 of the Cowhead/Massacre Planning Unit. ORV impact is low throughout these Sub Units and restrictions are unnecessary at this time. Some 30,000 acres of Tuledad/Home Camp Planning Unit are currently being used for ORV. These lands are known as the southern sand dunes of Lower Lake, 25 miles from Cedarville, California. Open designation was determined to be appropriate for the non-vegetated portion.

B. Limited Designation

1. Limited Season of Use—79,000 Acres

High Rock Canyon (Sub Unit 1) of the Cowhead/Massacre Planning Unit is located ca. 35 miles south and east of Cedarville, California. Motorized vehicle use in this area is limited to designated routes from February 15 to March 31, except during or immediately following periods of wet weather to protect wildlife habitat and historic resource values.

2. Use Limited to Designated Roads and Trails—665,000 Acres

Motorized vehicle use in the Tuledad/Home Camp Planning Unit, except that area designated as open or closed, is permitted on designated roads and trails which are identified with signs and on maps. This designation also applies to the Cowhead/Massacre (Sub Unit 1) High Rock Area except as noted above in B.1. (Limited Season of Use) when it is closed.

C. Closed Designation

The 1,000 acre area in the vegetated portion of the sand dunes of Lower Lake is closed to motorized vehicle use to protect the fragile ecosystem.

The 79,000 acre High Rock Canyon (Sub Unit 1) of Cowhead/Massacre Planning Unit is closed from February 15 to March 31 and during or immediately following periods of wet weather to protect wildlife habitat and historic resources.

These designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the authorized officer. The documentation describing the impact of these designations is available for inspection at the offices listed below.

ADDRESS: For further information about these designations, contact either of the following Bureau of Land Management Officials:

District Manager, Susanville District Office, 705 Hall Street, P.O. Box 1090, Susanville, CA 96130 (916) 257–5381

Area Manager, Surprise Resource Area, 602 Cressler Street, P.O. Box 460, Cedarville, CA 96104 (916) 279–6101

Date: August 3, 1987.

Lee Delaney,

Authorized Officer.

[FR Doc. 87–18286 Filed 8–11–87; 8:45 am]

BILLING CODE 4331–13–M

[Designation Order WY–060–8702]

Off Road Vehicle Designations; Casper District, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of off-road vehicle designation decision.

SUMMARY: Off road vehicle designations are made for all public lands in Sheridan and Campbell Counties, Wyoming with publication of this notice. All designations are in accordance with the 1985 Buffalo Resource Area Resource Management Plan (RMP).

DATES: The designations become effective with the publication of this notice and will remain in effect until recinded or modified by the authorized officer.

ADDRESSES: Copies of the resource management plan and environmental impact statement describing the impacts of these designations is available for inspection at the following locations:

Bureau of Land Management, Casper District Office, 1701 East E Street, Casper, Wyoming 82601

Bureau of Land Management, Buffalo Resource Area Office, 189 North Cedar, Buffalo, Wyoming 82834

FOR FURTHER INFORMATION CONTACT: James Monroe, Casper District Manager at the Casper address given above, telephone 307/261–5101 or Glenn Bessinger, Buffalo Area Manager at the Buffalo address above, telephone 307/684–5586.

SUPPLEMENTARY INFORMATION: Notice is hereby given relating to the use of off road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under administration of the Bureau of Land Management are designated as limited to off road motorized vehicle use.

The 286,797 acre area affected by the designations includes all public lands in Campbell and Sheridan Counties, Wyoming. These designations are a result of resource management decisions made in the 1985 Buffalo RMP. Comments received from public hearings and written responses influenced the designation decisions. These designations are published as final today. Under 43 CFR Part 4, Subpart E, an appeal may be filed within 30 days with the Interior Board of Land Appeals.

Use Limited to Existing Roads and Vehicle Routes—239,997 Acres

This designation was determined appropriate for all 50,730 acres of BLM administered public land in Sheridan County and 189,267 acres (80%) of the public land in Campbell County. Vehicle use on these public lands is limited to roads and vehicle routes in existence at the time of this designation order. Existing roads and vehicle routes may be closed if resource damage is occurring. In these cases, closed road signs will be posted.

Use Limited to Designated Roads and Vehicle Routes—46,800 Acres

This designation was determined appropriate for 46,800 acres (20%) of BLM administered public land in Campbell County. Vehicle use on these public lands is limited to designated roads and vehicle routes which are identified with signs and on maps. Specific areas under this designation are:

Fortification Creek—Approximately 18,930 acres encompassing the Campbell County portion of the Fortification Creek Wilderness Study Area and surrounding areas providing crucial elk habitat;

Dry Creek—Two blocks of public land totaling 7,080 acres located near Rockypoint in the northeastern corner of Campbell County;

Weston Hills—6,870 acres located 29 miles north of Gillette, Wyoming;

Powder River—Two blocks of public land, 6,400 acres, located south of Interstate 90 near the Powder River;

Little Powder River (North and South Units)—3,040 acres approximately 18 miles (south unit) and 43 miles (north unit) north of Gillette, Wyoming;

Whitetail—2,880 acres in north central Campbell County;

Pumpkin Buttes—A prominent natural landmark in southwestern Campbell County containing 1,600 acres of public land.

Travel by over-snow vehicles will be permitted off existing or designated routes provided they are operated in a responsible manner without damaging vegetation or harming wildlife. Any individual or corporation having special access needs may apply to the authorized officer for a permit to deviate from the designation orders.

Date: August 4, 1987.

James W. Monroe,

District Manager.

[FR Doc. 87–18281 Filed 8–11–87; 8:45 am]

BILLING CODE 4310–22–M

Fish and Wildlife Service

[PRT–720484 and PRT–720682]

Receipt of Applications for Permits; William E. Moss and Milwaukee County Zoo

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–720484

Applicant: William E. Moss, McLean, VA

The applicant requests a permit to import the trophy of a sport-hunted bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd of Mr. J. J. de Smit, Irene Game Ranch, Cape Province, Republic of South Africa, to enhance the propagation and survival of the herd.

PRT–720682

Applicant: Milwaukee County Zoo, Milwaukee, WI

The applicant requests a permit to import one captive-bred snow leopard (*Panthera uncia*) from the Metropolitan Toronto Zoo, Ontario, Canada, for captive propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate applicant and PRT number when submitting comments.

Dated: August 6, 1987.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87–18273 Filed 8–11–87; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Development Operations Coordination Document; Taylor Energy Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD)

SUMMARY: Notice is hereby given that Taylor Energy Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 3467, Block A–7, Matagorda Island Area, offshore Texas. Proposed plans for the above area provide for the developmemt and production of hydrocarbons will support activities to be conducted from an onshore base located at Port O'Connor, Texas.

DATE: The subject DOCD was deemed submitted on August 3, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public reveiw.

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: August 4, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–18294 Filed 8–11–87; 8:45 am]

BILLING CODE 4310–MR–M

Bureau of Land Management

[CO–030–07–4322–10–1784]

Meeting of the Montrose District Grazing Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of Montrose District Grazing Advisory Board.

SUMMARY: Notice is hereby given that a meeting of the Montrose District Grazing Advisory Board will be held in Gunnison, Colorado.

DATE: Friday, September 11, 1987, at 10:00 a.m., the meeting will convene in the conference room at the Gunnison Resource Area Office, 216 North Colorado, Gunnison, Colorado.

SUPPLEMENTARY INFORMATION: The agenda for the meeting on September 11, 1987, will include:

1. Introductions.
2. Minutes of the previous meeting.
3. Public presentations and requests.
4. Discussion of winter water mitigation plans for the Uncompahgre Valley.
5. Allotment management plans completed this year.
6. New or revised allotment management plan proposals.
7. Discussion of Deserett Livestock Company tour.
8. Presentation of proposed project work for fiscal year 1988.
9. New Advisory Board project proposals.
10. Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 10:00 a.m. and 11:00 a.m. on September 11, 1987, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 2465 South Townsend, Montrose, Colorado 81401, by September 9, 1987. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Further information on the meeting may be obtained at the above address or by calling (303) 249–7791.

Dated: August 5, 1987.

Phillip W. Dwyer,

Acting District Manager.

[FR Doc. 87–18540 Filed 8–11–87; 10:25 am]

BILLING CODE 4310–JB–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–383 (Preliminary)]

Certain Bimetallic Cylinders From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731–TA–383 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or whether the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of certain parts for injection-molding or extrusion machines,[1] provided for in item 678.35 of the Tariff Schedules of the United States, that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by September 18, 1987.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: August 4, 1987.

FOR FURTHER INFORMATION CONTACT: Martha Mitchell (202–523–0291), Office of Investigation, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that informatio on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–

[1] Such parts are hollow steel cylinders to whose inner surfaces an alloy of nickel, boron, and silica has been metallurgically bonded, and are, if imported, reported under items 678.3570 and 678.3575 of the Tariff Schedules of the United States Annotated.

0002. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–523–0161.

SUPPLEMENTARY INFORMATION:

Background—This investigation is being instituted in response to a petition filed on August 4, 1987, by Xaloy Inc., Pulaski, VA, and Bimex Corp., Wales, WI.

Participation in the investigation—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parites to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary wll not accept a document for filing without a certificate of service.

Conference—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on August 28, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Martha Mitchell (202–523–0291) not later than August 24, 1987, to arragne for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions—Any person may submit to the Commission on or before September 2, 1987, a written statement of information pertinent to the subject of the investigation as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 201.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: August 6, 1987.

[FR Doc. 87–18416 Filed 8–11–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–273]

Investigation; Certain Cellular Mobile Telephones and Subassemblies and Component Parts Thereof

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 18, 1987, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Motorola, Inc., 1303 East Algonquin Road, Schaumburg, Illinois 60196. The complaint alleges unfair methods of competition and unfair acts in the importation into the United States of certain cellular mobile telephones and subassemblies and component parts thereof, and in their sale, by reason of alleged direct, contributory, and induced infringement of (1) at least claims 1–3 of U.S. Letters Patent 3,728,731; (2) at least claims 37–38, 44, 49, 61–68, 77–83 and 85 of U.S. Letters Patent 4,523,155; (3) at least claims 1, 4, 8, 10 and 15 of U.S. Letters Patent 4,602,218; and (4) at least claims 1–3, 5, 9–10, 24, and 31 of U.S. Letters Patent 4,378,603. The complaint further alleges that with respect to U.S. Letters Patent 3,728,731, U.S. Letters Patent 4,523,155, U.S. Letters Patent 4,378,603, the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Steven Schwartz, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–523–4877.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 3, 1987, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation into the United States of certain cellular mobile telephones and subassemblies and component parts thereof, or in their sale, by reason of alleged direct, contributory, and induced infringement of (1) claims 1–3 of U.S. Letters Patent 3,728,731; (2) claims 37–38, 44, 49, 61–68, 77–83 and 85 of U.S. Letters Patent 4,523,155; or (3) claims 1–3, 5, 9–10, 24, and 31 of U.S. Letters Patent 4,378,603, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Motorola, Inc., 1303 East Algonquin Road, Schaumburg, Illinois 60196

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Novatel Communications, Ltd., 1020 64th Avenue NE., Calgary, Alberta, Canada T2E 7V8

Hyundai Electronics Industries Co., Ltd., 12th Floor, Hyundai Building, 140–2, Kye-Dong, Chongro-Ku, Seoul, South Korea

Astec International, 6th Floor, Kaiser Estate, Phase 2, Hung Hom, Kowloon, Hong Kong

Novatel Carcom, Inc., 1923 Bomar Street, Fort Worth, Texas 76103

Novatel Communications, Inc., 2820 Peterson Place, Norcross, Georgia 30071

Hickman Investments, Inc., 1923 Bomar Street, Fort Worth, Texas 76103

(c) Steven Schwartz, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW., Room 124, Washington, DC 20436, shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's rules of practice and procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, DC 20436, telephone 202–523–0471. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: August 5, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–18415 Filed 8–11–87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701–TA–249–1 (Final)]

Certain Light Iron Construction Castings From Brazil

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On July 30, 1987, the Commission received a letter from counsel to the petitioners in the subject investigation (Collier, Shannon, Rill & Scott) withdrawing their petition. Accordingly, pursuant to § 207.40(a) of the Commission's rules of practice and procedure (19 CFR 207.40(a)), the countervailing duty investigation concerning certain light iron construction castings from Brazil (Investigation No. 701–TA–249–1 (Final)) is terminated.

EFFECTIVE DATE: August 6, 1987.

FOR FURTHER INFORMATION CONTACT: Martha Mitchell (202–523–0291), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impared individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Authority: This investigation is being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.40 of the Commission's rules (19 CFR 207.40).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: August 6, 1987.

[FR Doc. 87–18417 Filed 8–11–87; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731–TA–342 and 346 (Final)]

Tapered Roller Bearings and Parts Thereof and Certain Housings Incorporating Tapered Rollers From Italy and Yugoslavia

Determination

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673(b)(1)), that an industry in the United States is materially injured by reason of imports from Italy [2] and Yugoslavia [3] of tapered roller bearings and parts thereof, and certain housings incorporating tapered rollers, all the foregoing provided for in items 680.3040, 680.3932, 680.3934, 680.3938, 680.3940, 681.1010, or 692.3295 of the Tariff Schedules of the United States annotated, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Further, pursuant to section 735(b)(4)(A) of the Act (19 U.S.C. 1673(b)(4)(A)), the Commission determines that the material injury in the investigation by reason of imports from Italy is not by reason of massive imports over a relatively short period to an extent that, in order to prevent such material injury from recurring, it is necessary to impose antidumping duties retroactively on those imports. [4]

Background

The Commission instituted these investigations effective February 6, 1987, following preliminary determinations by the Department of Commerce that imports of the subject merchandise from Italy and Yugoslavia are being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of February 26, 1987 (52 FR 5841). The hearing was held in Washington, DC, on May 21, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on August 5, 1987. The views of the Commission are contained in USITC Publication 1999 (August 1987), entitled "Tapered Roller Bearings and Parts Thereof, and Certain Housing Incorporating Tapered Rollers from Italy and Yugoslavia: Determination of the Commission in Investigations Nos. 731–TA–342 and 346 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairman Leibeler dissenting.

[3] Chairman Liebeler and Vice-Chairman Brunsdale dissenting.

[4] Commissioner Eckes dissenting.

By order of the Commission.
Kenneth R. Mason,
Secretary.
Issued: August 6, 1987.
[FR Doc. 87-18418 Filed 8-11-87; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Revocation of Registration Denial of Application; Stephen Marcus Levine, M.D.

On March 13, 1987, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to Stephen Marcus Levine, M.D. of 3344 A. Lacienega Blvd., Los Angeles, California 90034. The Order to Show Cause sought to revoke DEA Certificate of Registration AL8292118 and to deny Dr. Levine's application for renewal of that registration executed on March 13, 1986, for registration as a practitioner under 21 U.S.C. 823(f). The statutory predicate for the Order to Show Cause was the felony conviction of Dr. Levine in the Superior Court of California, County of Los Angeles, of five counts of unlawfully giving a false name and address in connection with the prescribing of a controlled substance in violation of section 11179 of the California Health and Safety Code, felonies relating to controlled substances.

A registered mail receipt indicates that the Order to Show Cause was received by Dr. Levine's agent on March 21, 1987. There was no response to the Order to Show Cause within the allotted thirty-day period. Therefore, the Administrator concludes that Dr. Levine has waived his opportunity for a hearing on the issues raised by the Order to Show Cause and, pursuant to 21 CFR 1301.54(d) and 1301.54(e), enters this final order based on the record as it appears.

Under 21 U.S.C. 824(a)(2), the Administrator may revoke a registration upon a finding that the registrant has been convicted of a felony relating to controlled substances under state or Federal law. The Administrator finds that Dr. Stephen Levine was convicted of one count of involuntary manslaughter and five counts of unlawfully giving a false name and address in connection with the prescribing of the controlled substance Demerol on April 23, 1986. These charges arose from the death of Myrna R. Levine, wife of Dr. Levine, on May 12, 1984. An autopsy performed by the Los Angeles County Coroner's Office determined the cause of death to be acute meperidine (Demerol) intoxication. The quantity of Demerol found in Myrna Levine's body was 24 to 48 times as great as that found when the drug is normally administered.

Police investigation revealed that Dr. Levine wrote prescriptions for Demerol to Myrna Levine on two occasions in March of 1983 and on one occasion in April of 1983. In July of 1983 Dr. Levine wrote four prescriptions for Demerol to Myrna Levine. In July, 1983, Dr. Levine wrote prescriptions for Dmerol in the name Robert Kaufman and discontinued writing Demerol prescriptions for Myrna Levine. During the period of July, 1983 to May 10, 1984, there were 244 prescriptions for Demerol and one prescription for methadone written by Dr. Levine for Robert Kaufman.

Attempts by investigators to locate Robert Kaufman proved to be fruitless. Although all of the prescriptions issued to Robert Kaufman contained the same address, the owner of the property indicated that not only did he have no knowledge of such an individual, but that the property had not been occupied by anyone during the period that the prescriptions were issued. Furthermore, expert medical examinations revealed that several aspects of Robert Kaufman's medical file (which stated that he was suffering from pancreatic cancer) indicated that it was totally fictitious. A review of the medical file by a handwriting expert for the Los Angeles Police Department indicated that several pages of notes and billing information extending over a substantial chronological period appeared to have been written at the same time. The inescapable conclusion drawn from the investigations and surrounding circumstances was that Robert Kaufman was a fictitious character created to cover up the fact that the Demerol being obtained through Dr. Levine's prescriptions was actually satisfying the addiction of Myrna Levine.

Myrna Levine had been hospitalized numerous times for a variety of undiagnosed disorders. During the course of each hospitalization, Mrs. Levine's addiction to Demerol was discovered by her physicians who then weaned her from her physical dependency so that she was fully detoxified upon discharge. The fact of Myrna Levine's addiction was communicated by the physicians to her husband. Knowledge of Myrna Levine's addiction became widespread during her last hospitalization and resulted in the attempts of staff nurses and a psychologist to help her overcome it.

Expert medical testimony established that the doses of Demerol provided to Myrna Levine through the Robert Kaufman prescriptions were highly excessive; she received up to five times the recommended amount. It was stated that there is no medical justification for doses of such magnitude.

On his application for renewal of his DEA registration, which was executed on March 31, 1986, Dr. Levine indicated that he had pled guilty to five counts of prescribing in a false name and address. He further indicated that the false name and address were for a patient "I examined and who was introduced to me as my father-in-law by my wife." Evidence in the record clearly indicates that Robert Kaufman, the name used on the prescriptions, was a fictitious person. Dr. Levine, however, apparently continues to believe he exists.

Based upon Dr. Levine's felony conviction relating to controlled substances, the Administrator concludes that there is a lawful basis for revoking Dr. Levine's DEA Certificate of Registration and denying his application for renewal. As a neurosurgeon with extensive medical training, Dr. Levine knew, or should have known, that the continuous unlawful furnishing of a narcotic such as Demerol to a known Demerol addict could reasonably be expected to lead to the recipient's death.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) hereby orders that DEA Certificate of Registration AL8292118, previously issued to Stephen Marcus Levine, M.D., be, and it hereby is, revoked. The Administrator further orders that any pending applications be, and they hereby are, denied. This order is effective September 11, 1987.

Date: August 6, 1987.
John C. Lawn,
Administrator.
[FR Doc. 87-18346 Filed 8-11-87; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 87-71; Exemption Application No. D-6355 et al.]

Grant of Individual Exemptions; AmeriTrust Co. et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, 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 proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

AmeriTrust Company, N.A. (AmeriTrust) Located in Cleveland, OH

[Prohibited Transaction Exemption 87–71; Exemption Application No. D–6355]

Exemption

The restrictions of section 406(b)(2) and 406(b)(3) of the Act shall not apply to the proposed receipt of fees by AmeriTrust from the Financial Reserves Fund, an open-end investment company, for which AmeriTrust performs services, in connection with the investment of funds, through a daily automated sweep arrangement, of those voluntary employees' beneficiary association trusts (the VEBA's) for which AmeriTrust acts as investment manager, custodian or directed trustee, under the terms described in the proposed exemption.[1]

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 5, 1987 at 52 FR 21390.

For Further Information Contact: David Lurie of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Hochman, Salkin and DeRoy Money Purchase Pension Plan (the Plan) Located in Beverly Hills, CA

[Prohibited Transaction Exemption 87–72; Exemption Application No. D–6792]

Exemption

The restrictions of section 406(a) 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 (D) of the Code, shall not apply to the cash sale by the Plan of a single family residence in Los Angeles, California (the Property) to Richard Marmaro, a party in interest with respect to the Plan; provided that the cash received from the sale is not less than the fair market value of the Property on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 19, 1987 at 42 FR 18760.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

[1] Since the VEBA's are not qualified under section 401 of the Code, there is no jurisdiction under Title II of the Act pursuant section 4975 of the Code. However, there is jurisdiction under Title I of the Act pursuant to section 3(2) of the Act. In addition, the Department is not proposing exemptive relief for transactions covered by section 408(b)(2) of the Act and § 2550.408b–2 of the regulations.

Castro Convertible Employer's Retirement Trust (the Plan) Located in New Hyde Park, NY

[Prohibited Transaction Exemption 87–73; Exemption Application No. D–6813]

Exemption

The restrictions of section 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 leasing of certain real property by the Plan to Casto Convertible Corporation, provided that all of the terms of such lease are as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

Effective Date: March 18, 1986.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 10, 1987 at 52 FR 11776.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Carson Pirie Scott and Company (the Company) Located in Chicago, Illinois

[Prohibited Transaction Exemption 87–74; Exemption Application No. D–6675]

Exemption

The restrictions of section 406(a) and 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 cash purchase by the Company of certain real property (the Property) from the Carson/Dobbs Hourly Employees' Pension Plan and the Carson/Dobbs Salaried Employees' Pension Plan (the Plans), which are sponsored by the Company; provided that the purchase price for the Property is no less than the greater of: (1) $950,000 or (2) the Property's fair market value as of the date of such sale; and provided further that all terms of such sale are no less favorable to the Plans than the Plans could obtain in an arms-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 9, 1987 at 52 FR 7239.

Written Comments: The Department received three comments to the proposed exemption and no requests for a hearing. Only one of the comments

addressed substantive issues concerning the proposed transaction. Such issues are summarized as follows:

1. Questions about the existing lease on the Property relating to term of the lease, the amount of rental paid and the lease's provisions regarding maintenance of the Property;

2. Concerns that the property's current fair market value might be adversely affected by the Company's past maintenance of the Property's improvements;

3. A question as to the rate of interest to be paid by the Company on the amount representing the difference between rental actually paid since June 30, 1984 and the Property's fair market rental value since June 30, 1984;

4. A concern that the proposed purchase price for the Property was determined after only two professional appraisals of the Property.

Responses to these comments were submitted to the Department by a representative of the Company and by the Continental Illinois National Bank and Trust Company of Chicago (the Trustee), the trustee of the Plan. The responses are summarized as follows, corresponding in order to the comment summaries listed above:

1. The Company represents that the original term of the lease was thirty years and the that annual rental has been $17,033.50. The Company also refers to Article IV of the lease setting forth the Company's obligation, among other things, to maintain all portions of the Property in a good state of repair and in a clean and orderly condition;

2. The Company represents and the Trustee confirms that the building on the Property has been properly maintained. The Trustee represents that it has inspected the Property and has reviewed the two appraisals of the Property referred to in the Notice of Proposed Exemption. Based on this inspection of the Property and the information contained in the appraisals, the Trustee has determined that the Property's current fair market value has not been adversely affected by the quality of the maintenance of the Property;

3. The Trustee has determined that the interest rate to be applied on the difference between rental actually paid and fair market rental value will be the interest earned by the pooled Short Term Investment Fund I of the Continental Illinois Investment Trust during the applicable periods since June 30, 1984;

4. The Trustee made the determination that only two appraisals were necessary to ascertain the Property's fair market value. The Trustee represents that it reviewed and accepted the two appraisals in combination with an inspection of the Property. Furthermore, the Trustee will arrange for Mr. Andrew W. Runge to update his appraisal of the Property as of the date of the sale. If the Property's fair market value has increased since Runge's appraisal of May 14, 1986, the purchase price of the Property will be increased accordingly.

After consideration of the entire record, the Department has determined to grant the exemption.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Sweeney, Ferrari Endodontic Associates Profit Sharing Plan (the Plan) Located in Pittsburgh, PA

[Prohibited Transaction Exemption 87-75; Exemption Application No. D-6894]

Exemption

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: (1) The proposed cash sale by Dr. and Mrs. James E. Sweeney (the Sweeneys) of an undivided one-half interest in a parcel of unimproved real property (Lot 2), for the total consideration of $20,000, to Dr. Sweeney's individual account (the Account) in the Plan, provided the amount paid is not greater than the fair market value of the interest in Lot 2 on the date of the sale; and (2) the proposed cash sale by the Account of an undivided one-half interest in another parcel of unimproved real property (Lot 3), for the total consideration of $22,000, to the Sweeneys, provided the amount paid is not less than the fair market value of the interest in Lot 3 on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 12, 1987 at 52 FR 22560.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Plumbers & Steamfitters Local 60 Pension Fund (the Plan) Located in Metairie, LA

[Prohibited Transaction Exemption 87-76; Exemption Application No. D-6935]

Exemption

(1) The restrictions of section 406(a), 406(b)(1) and 406(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 effective April 10, 1987, to the cash purchase by the Plan of a parcel of improved real property (the Property) located in Metairie, Louisiana, from the Plumbers & Steamfitters Local 60 Home Association, Inc., a party in interest with respect to the Plan; (2) the restrictions of section 406(b)(2) of Act shall not apply, effective April 10, 1987, to the lease of space in the Property to the Plumbers & Steamfitters Local 60 Education Trust (the Trust); and (3) the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4775 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective April 10, 1987, to the lease of space in the Property to Gardner, Robein & Healey, a party in interest with respect to the Plan, provided that the terms of the transactions are at least as favorable to the Plan and the Trust as arm's-length transactions between unrelated parties would be.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 21, 1987 at 52 FR 13153.

For Further Information Contact: David Lurie of the Department, telephone (202) 523-8194). (This is not a toll-free number.)

Bermo, Inc. Profit Sharing Plan and Trust (the Plan) Located in Bloomington, Minnesota

[Prohibited Transaction Exemption 87-77; Exemption Application No. D-7039]

Exemption

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 loans of money from the Plan to Bermo, Inc., the sponsor of the Plan, and to the personal guarantee of the loans by a party in interest with respect to the Plan, provided the terms of the loans are at least as favorable as the Plan could obtain in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 5, 1987 at 52 FR 21393.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523–8196. (This is not a toll-free number.)

InterFirst Corporation Profit Sharing and Savings Plan (the Plan) Located in Dallas, Texas

[Prohibited Transaction Exemption 87–78; Exemption Application No. D–7077]

Exemption

The restrictions of section 406(a) and 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(b)(1) (A) through (E) of the Code, shall not apply to the extension of credit to the Plan by InterFirst Corporation, the sponsor of the Plan and a party in interest with respect to the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 26, 1987, at 52 FR 19610.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Spreitzer, Inc. Profit Sharing Trust (the Plan) Located in Cedar Rapids, Iowa

[Prohibited Transaction Exemption 87–79; Exemption Application No. D–7094]

Exemption

The restrictions of section 406(a)(1), 406(b)(1) and 406(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: (1) The proposed loans of funds (the Loans) for a period of five years by the Plan to Spreitzer, Inc., the Employer and sponsor of the Plan, under the terms and conditions described in the notice of proposed exemption, provided such terms and conditions are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party; and (2) the personal guarantee of the Loans to the Plan by Mr. Joseph Spreitzer, a party in interest with respect to the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 12, 1987 at 52 FR 22561.

Temporary Nature of Exemption: This exemption is temporary in nature and will expire 5 years from the date of the granting of the exemption.

For Further Information Contact: Mrs. Betsy Scott of the Department, telephone (202) 523–8883. (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 the 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) These exemptions are 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.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 6th day of August, 1987.

Elliot I. Daniel,

Associate Director for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 87–18244 Filed 8–11–87; 8:45 am]

BILLING CODE 4510–29–M

MERIT SYSTEMS PROTECTION BOARD

Privacy Act of 1974; Systems of Records

AGENCY: Office of the Special Counsel, Merit Systems Protection Board.

ACTION: Proposed amendments to routine uses and exemptions of systems of records.

SUMMARY: The purpose of this document is to give notice, pursuant to subsection (e)(11) of the Privacy Act, 5 U.S.C. 552a, and 5 U.S.C. 553, of the intent to amend the routine uses of records required under subsection (e)(4)(D) of the Act and to state exemptions of systems of records as authorized by subsection (k)(2), (5) and (6) of the Act.

DATE: Written comments on the proposed amendments may be submitted by any person. These routine uses and exemptions shall become effective on September 15, 1987 unless comments received before this date justify amendments or deletions.

ADDRESS: Comments should be addressed to the Office of the Special Counsel, 1120 Vermont Avenue, NW., Suite 1100, Washington DC 20005. Comments received will be available for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: Henry Darnell Lewis, Office of the Special Counsel, 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005, telephone (202) 653–8982.

SUPPLEMENTARY INFORMATION: The Office of the Special Counsel was created by Reorganization Plan No. 2 of 1978 (43 FR 36037) and the Civil Service Reform Act of 1978, Pub. L. No. 95–454, 92 Stat. 1111 (1978). By section 204 of the Reorganization Plan and the statute codified at 5 U.S.C. 552(a)(4)(F), 1206, 1303, the Special Counsel is required to investigate any allegation or other indication of a prohibited personnel practice and is authorized to investigate certain other prohibited activity, including but not limited to alleged violations of the Hatch Act and certain other prohibited political activity. Documentation of the official activities of the Office of the Special Counsel will include certain records subject to the provisions of the Privacy Act: Correspondence and complaint files retrieved by the name of a person filing an allegation of a prohibited personnel practice or other prohibited activity; investigative files retrieved by the name of a person pertaining to allegations of prohibited political activity, prohibited personnel practice or other prohibited activity; and litigation-related files retrieved by the name of a non-Government party to a lawsuit. All other files created during the performance of official duties will be indexed and

retrieved by the appropriate subject matter and/or agency involved.

Any suggestions received during the comment period which require changes to this notice will be accommodated by revisions which will be published subsequently in the **Federal Register.**

Mary F. Wieseman,

Special Counsel.

MSPB/OSC-1

SYSTEM NAME:

OSC Complaint, Litigation and Political Activity Files.

SYSTEM LOCATION:

Office of the Special Counsel, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Suite 1100, Washington, DC 20005.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who files an allegation of prohibited personnel practices or other prohibited acitivity or who is accused of such practices or activity, or who is alleged to have participated in prohibited political activity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence between a person filing an allegation of prohibited personnel practices or other prohibited activity and the Office of the Special Counsel or another agency; statements of alleged prohibited political activity and related reports of investigation, affidavits, correspondence, letters of charges, and administrative determinations; records created or compiled in connection with litigation involving directly or indirectly the Office of the Special Counsel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEMS:

5 U.S.C. 552(a)(4)(F), 1206–1208, 1504, 7321–7325.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES, MAY BE AS FOLLOWS:

a. To disclose the fact that an allegation of prohibited personnel practices or other prohibited activity has been filed;

b. To disclose information to the Office of Personnel Management pursuant to Civil Service Rule 5.4 (5 CFR 5.4), or to obtain an advisory opinion concerning the application or effect of civil service laws, rules, regulations or OPM guidelines in particular situation.

c. To disclose to the Equal Employment Opportunity Commission and any other agency or office concerned with the enforcement of the antidiscrimination laws, information concerning any allegation or complaint of discrimination based on race, color, religion, sex, national origin, age or handicapping condition;

d. To disclose information to the Merit Systems Protection Board or the President upon the filing or referral of a disciplinary action complaint against an employee on the basis of an OSC investigation;

e. To disclose information to an agency, the Merit Systems Protection Board, the Office of Personnel Management and the President in reporting, under 5 U.S.C. 1206(c)(1), the results of investigations which disclose reasonable grounds to believe a prohibited personnel practice has occurred, exists, or is to be taken;

f. To disclose information to Congress in connection with the submission of an annual report on activities of the Special Counsel;

g. To disclose information to any agency or person regarding allegations of prohibited personnel practices or other prohibited activity or prohibited political activity filed against an agency or any employee thereof, for the purposes of conducting an investigation; in transmitting information to an agency under 5 U.S.C. 1206(b) and the OSC procedures established thereunder; or to give notice of the status or outcome of the investigation;

h. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit;

i. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circluar No. A-19.

j. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office (made at the request of that individual);

k. To furnish information to the National Archieves and Records Administration in records management inspections conducted under authority of 4 U.S.C. 2904 and 2906;

l. By the Special Counsel in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained or for related work force studies;

m. To disclose relevant and necessary information to the Department of Justice when:

(1) OSC is a party to litigation,

(2) An OSC officer or employee, in an official capacity, is a party to litigation,

(3) An OSC officer or employee, in an individual capacity, is a party to litigation, where the Department of Justice has agreed to represent that officer or employee, or

(4) The United States, and not OSC specifically, is a party to litigation, and OSC determines that the litigation is likely to affect OSC.

In each case, however, disclosure of records or information will be only to the extent compatible with the purpose for which the records were collected, as determined by OSC;

n. To disclose relevant and necessary information when:

(1) OSC is a party to litigation,

(2) An OSC officer or employee, in an official capacity, is a party to litigation,

(3) An OSC officer or employee, in an individual capacity, is a party to litigation, where OSC or the Department of Justice has agreed to represent that officer or employee, or

(4) The United States, and not OSC specifically, is a party to litigation, and OSC determines that the litigation is likely to affect OSC.

In each case, however, disclosure of records or information will be only to the extent compatible with the purpose for which the records were collected, as determined by OSC;

o. To disclose information to the Merit Systems Protection Board to aid in the conduct of special studies by the Board under 5 U.S.C. 1205(a)(3); and

p. To disclose information to the Office of Inspector General or comparable internal inspection audit or oversight office of an agency for the purpose of facilitating the coordination and conduct of investigations and review of allegations within the purview of both the Office of the Special Counsel and the agency Office of Inspector General or comparable office.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, on lists, index cards, forms, and on computer storage equipment.

RETRIEVABILITY:

These records are retrieved by the name of the person (or the person's

representative, or both) who filed an allegation of a prohibited personnel practice or other prohibited activity, or who is accused of such a practice or activity, or who is alleged to have participated in prohibited political activity.

SAFEGUARDS:

These records are located in lockable metal file cabinets or in secured areas with access limited to those personnel whose official duties require access:

RETENTION AND DISPOSAL:

The National Archives and Records Administration (NARA) retains records concerning prohibited personnel practices and other prohibited activity for three years after the matter or case is closed. Disposal is accomplished by NARA.

SYSTEM MANAGER AND ADDRESS:

William E. Caldwell, 1120 Vermont Avenue, NW, Suite 1100, Washington, DC 20005.

NOTIFICATION PROCEDURE:

Individuals who wish to inquire whether this system contains information about them should contact the system manager. To assist in the process of locating and identifying records, individuals should furnish the following:

a. Name and address;

b. Date and place of birth;

c. Social security number;

d. A description of the circumstances under which records may have been included in this system.

RECORDS ACCESS PROCEDURE:

Same as notification procedure.

CONTESTING RECORD PROCEDURE:

Individuals who wish to contest records about them should contact the system manager, identify any information they believe should be corrected, and furnish a statement of the basis for the requested correction along with all available supporting documents and materials.

RECORDS SOURCE CATEGORIES:

Information in this system of records is obtained from the subjects of the records, from agency officials, from agency documents, from witnesses, and from any other persons or organizations furnishing information pertinent to the discharge of functions for which the Office of the Special Counsel is responsible.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

a. Complaint, Litigation and Political Activity Files containing investigatory material compiled by the Office of the Special Counsel for law enforcement purposes are exempt to the extent allowed under subsection (k)(2) and (5) of the Privacy Act. This exemption is necessary to protect confidential sources and facilitate the voluntary cooperation of witnesses during inquiries into allegations of prohibited personnel practices or other prohibited activity.

b. Testing or examination material compiled by the Office of the Special Counsel solely to determine individual qualifications for appointment or promotion in the Federal service is exempt to the extent allowed under subsection (k)(6) of the Privacy Act. This exemption is necessary to prevent the disclosure of information which would potentially give an individual an unfair competitive advantage or diminish the utility of established examination procedures.

c. The Office of the Special Counsel reserves the right to assert exemptions for records received from another agency that could be properly claimed by that agency in responding to a request and the Office of the Special Counsel may refuse access to information compiled in reasonable anticipation of a civil action or proceeding, as allowed by subsection (d)(5) of the Privacy Act.

[FR Doc. 87-18043 Filed 8-11-87; 8:45 am]
BILLING CODE 7400-02-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted by August 28, 1987.

ADDRESSES: Send comments to Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 727 Jackson Place, NW., Room 3002, Washington, DC 20503 (202-395-7316). In addition, copies of such comments may be sent to Ms. Marianna Dunn, National Endowment for the Arts, Administrative Services Division, Room 3203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202-682-5464).

FOR FURTHER INFORMATION CONTACT: Ms. Marianna Dunn, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202-682-5464); from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests the reinstatement of a previously approved collection for which approval has expired and the extension of a currently approved collection. Each entry is issued by the Endowment and contains the following information: (1) The title of the form; (2) how often the required information must ber reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: Theater Application Guidelines FY 1988/89.

Frequency of Collection: One-time.

Respondents: Individuals, state or local governments, and non-profit institutions.

Use: Guideline instructions and applications elicit relevant information from individual artists, nonprofit organizations, and state or local arts agencies that apply for funding under specific Program categories. This information in necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.

Estimated Number of Respondents: 751.

Estimated Hours for Respondents to Provide Information: 17,167.

Title: Challenge II Grants Application Guidelines FY 1989.

Frequency of Collection: One-time.

Respondents: Non-profit Institutions.

Use: Guideline instructions and applications elicit relevant information from nonprofit organizations that apply for funding under specific Program categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.

Estimated Number of Respondents: 125.

Estimated Hours for Respondents to Provide Information: 15,000.

Murray R. Welsh,

Director, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 87-18318 Filed 8-11-87; 8:45 am]
BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Bi-weekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all notices of amendments issued, or proposed to be issued from July 20, 1987 through July 31, 1987. The last bi-weekly notice was published on July 29, 1987 (52 FR 28369).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 11, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that

the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530 Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2 and 3, Maricopa County, Arizona

Date of amendment request: January 23, 1987, as supplemented by letters dated April 23, June 8 and July 17, 1987

Description of amendment request: The proposed amendments consist of proposed changes to the Technical Specifications (Appendix A to Facility Operating License Nos. NPF-41 for PVNGS, Unit 1, NPF-51 for PVNGS, Unit 2, and NPF-65 for PVNGS, Unit 3).

The proposed changes would revise Technical Specification (Tech Spec) Sections 1.0, 2.0, 3/4.1.1, 3/4.1.2 and 3/4.10.1 to reduce the boration requirements when the reactor is shut down, by modification of the shutdown margin requirements as follows:

(1) A new parameter, K_{N-1}, is proposed and defined as the K_{eff} calculated by considering the actual Control Element Assembly (CEA) configuration and assuming that the partially or fully inserted rod of highest inserted worth is fully withdrawn.

(2) Limiting Conditions for Operation (LCOs) 3.1.1.1 and 3.1.1.2 require that for Modes 1-4, the shutdown margin be greater than or equal to 6% delta K/K and for Mode 5 be greater than or equal to 4% delta KK. The proposed changes would revise the shutdown margin requirements for Modes 1-5 according to full length CEA position. The revised Tech Spec 3.1.1.1 would be applicable when all full length CEAs are fully inserted and would require that for Modes 3-5, the shutdown margin be greater than or equal to 1% delta K/K. The revised Tech Spec 3.1.1.2 would be applicable when any full length CEA is with drawn and would require that for Modes 1-5, the shutdown margin be greater than or equal to that given in a new Figure 3.1-1A. For a reactor coolant cold leg temperature less than or equal to 500° F, the proposed changes to Tech Spec 3.1.1.2 would also require K_{N-1} to be less than 0.99. The LCO action statements would also be revised to require boration when the above shutdown margin requirements are not met.

Surveillance Requirements 4.1.1.1.1 and 4.1.1.2 require that the shutdown margin be verified at given time intervals to satisfy the LCO requirements. The proposed changes would revise Tech Specs 4.1.1.1.1 and 4.1.1.2 to require that the shutdown margin be verified to the proposed new LCO requirements, as described above. In addition, the proposed changes would require that K_{N-1} be determined to be less than 0.99 at least once every 24 hours.

The associated Bases 3/4.1.1 and 3/4.1.2 would also be revised to reflect the proposed changes.

(3) The Action Statements for LCOs 3.1.2.2, 3.1.2.4, and 3.1.2.6, for Modes 1-4, require in part that when the requirements of the LCOs are not met, boration be carried out to a shutdown margin equivalent to at least 6% delta K/K at 210° F. The proposed changes would delete reference to the current shutdown margin requirements since they would be revised to the proposed values.

(4) LCO 3.1.2.3 currently restricts the number of charging pumps that may be in operation to one pump during plant operation in Mode 5 whenever the reactor coolant level is below the bottom of the pressurizer (i.e., whenever the reactor coolant system (RCS) has been drained for maintenance). The proposed change would delete this restriction from LCO 3.1.2.3 since the revised supporting analysis of an inadvertent deboration event bounds Mode 5 operation with the system partially drained.

(5) Tables 3.1-1 through 3.1-5 specify surveillance intervals during periods when a boron dilution alarm is inoperable. The proposed changes would make these tables more restrictive. The applicability of the surveillance intervals which apply during Mode 5 drained conditions would be expanded to apply any time during Mode 4 or 5 operation whenever the RCS is being cooled by the shutdown cooling system. Several of the surveillance frequencies given in the tables would be changed to be consistent with the supporting analysis. Mode 6 requirements would be deleted from Tables 3.1-1 through 3.1-4 since the K_{eff} range of these tables is above the K_{eff} definition for Mode 6 (i.e., K_{eff} less than 0.95) and, hence, Mode 6 would not apply.

(6) LCO 3.10.1 currently permits suspension of the shutdown margin requirement of Tech Spec 3.1.1.1 for performing measurements of CEA worth and shutdown margin during physics tests, provided that a reactivity equivalent to at least the highest estimated CEA worth is available for trip insertion, or the reactor is subcritical by that amount. The proposed changes would revise LCO 3.10.1 to reflect the new proposed shutdown margin requirements, including K_{N-1}, and to reflect that Tech Spec 3.1.1.2 would be the appropriate reference for shutdown margin requirements instead of Tech Spec 3.1.1.1.

(7) The proposed changes would add Special Test Exception 3.10.9 to allow the facility to suspend the requirements of the proposed revised Tech Specs 3.1.1.1 and 3.1.1.2 for the demonstration of the operability of the control element drive mechanism (CEDM) system during pre-startup tests, provided that no more than one CEA is withdrawn at any time (maximum of seven inches) and the K_{N-1} requirement of proposed Tech Spec 3.1.1.2 is met prior to start of testing. Basis 3/4.10.9 would also be added to reflect this change. This special test exception would allow the operator to perform control element drive mechanism tests prior to startup without being concerned about alternating

between the requirements of proposed Tech Spec 3.1.1.1 (all rods in) and proposed Tech Spec 3.1.1.2 (any rod withdrawn).

(8) As a result of proposed changes (1) through (3), (6) and (7) above, it is necessary to propose changes to setpoints that provide reactor trips in order to prevent the core from exceeding its safety limits in terms of departure from nucleate boiling ratio (DNBR) and local power density. These proposed changes, which are more restrictive, would consist of two parts:

(a) Item B.2 of Table 2.2-1 specifies a trip setpoint for "Excore Neutron Flux - Logarithmic Power Level - High" of less than or equal to 0.798% of rated thermal power, and an allowable value of less than or equal to 0.815% of rated thermal power. The proposed changes would revise the trip setpoint and allowable value to 0.010% and 0.011% of rated thermal power, respectively.

(b) Table notation (c) of Table 3.3-1 and Table notation (5) of Table 2.2-1 state that CPC trips may be manually bypassed below 1% of rated thermal power and the bypass shall automatically be removed when thermal power is greater than or equal to 1% of rated thermal power. The proposed changes would revise the value at which the CPC trip may be manually bypassed and at which the manual bypass is automatically removed, from 1% of rated thermal power to 10^{-4}% of rated thermal power.

(9) The proposed changes would renumber Special Test Exception 3.10.9 "Natural Circulation Testing Program" (Unit 1 only) to 3.10.10. This change is necessary so that the Special Test Exception added in item (7) above will be the same section number in the Technical Specifications for all units.

The purpose of the Technical Specifications affected by these proposed changes is to improve ALARA benefits by reducing the amount of makeup water that must be processed during shutdowns while ensuring that an adequate shutdown margin is maintained in the reactor at all times.

Basis for No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

A discussion of these standards as they relate to the amendment request follows:

Standard 1 - Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The anticipated operational occurrences (AOOs) and accidents that have the potential for being impacted by the proposed changes are steam line break, CEA withdrawal, CEA injection, inadvertent deboration and startup of an inactive reactor coolant pump (RCP). A discussion of how the proposed changes affect the consequences of these AOOs and accidents is presented below.

Standard Review Plan (SRP) Section 15.1.5 requires that steam line break events be evaluated considering potential for fuel damage. If the minimum DNBR during a steam line break event falls below specified limits based on acceptable correlations, fuel damage must be assumed. The results of the limiting steam line break analysis with the proposed changes indicate that the minimum post-trip DNBR remains well above the specified safety limits.

SRP Section 15.4.3 requires that the consequences of an uncontrolled CEA withdrawal from a subcritical or low power startup condition be evaluated on the basis that they are acceptable if the minimum DNBR remains above specified limits based on acceptable correlations. The reevaluation of the limiting CEA withdrawal analysis with the proposed changes indicates that the minimum DNBR will remain above the plant safety limit of 1.231.

SRP Section 15.4.8 requires that for a CEA ejection, the reactivity excursion should not result in a radially averaged enthalpy greater than 280 cal/gm at any axial location in any fuel rod. Reevaluation of the limiting CEA ejection accident concurrent with the introduction of the proposed K_{N-1} requirement ensures that the safety analysis acceptance criterion will be met.

SRP Section 15.4.6 requires that for an inadvertent boron dilution, a minimum time interval of 15 minutes for MODES 1 through 5, and 30 minutes for MODE 6, be available from the time an alarm makes the operator aware of an unplanned boron dilution and before a complete loss of shutdown margin occurs. With the proposed changes, the time to a complete loss of shutdown margin for the limiting inadvertent boron dilution is 52 minutes as compared to 95 minutes for the previously analyzed incident. Therefore, although the available time would be reduced, there is still sufficient time, greater than required minimum intervals, to alert the operator of an unplanned boron dilution prior to a complete loss of shutdown margin.

SRP Section 15.4.4 requires that for a startup of an inactive RCP, fuel clad integrity should be maintained by ensuring that specified acceptable fuel design limits are not exceeded. The results of a limiting startup of an inactive RCP with the proposed changes indicate that the reactor remains subcritical and the specified acceptable fuel design limits are not exceeded, thus maintaining fuel clad integrity.

The proposed change to lower the setpoint of the high logarithmic power trip will provide the trip function earlier than the previous setpoint. This trip provides protection in the event of an inadvertent bank withdrawal from Modes 2 and 3 initial conditions with four RCPs operating. The proposed change to lower the value of power below which the CPC trip can be bypassed, and above which the manual bypass is automatically removed, also provides added protection for an inadvertent CEA bank withdrawal postulated to occur in Modes 3, 4, or 5 with less than four RCPs operating. If the reactor coolant pressure or temperature is outside the CPC wide range trip limits, a continuous reactor trip signal will be generated by all four CPC channels and an immediate reactor trip will terminate an inadvertent CEA bank withdrawal event before significant power is generated. The events in Modes 2 and 3 with four RCPs operating, and the events in Modes 3, 4, and 5 with less than four RCPs operating, have been determined to be less limiting than the CEA bank withdrawal event presented in the Palo Verde Final Safety Analysis Report. Also, the proposed changes do not alter how the CPCs respond to design basis events.

Therefore, operation of the facility in accordance with the proposed changes will not involve a significant increase in probability or consequences of any accident previously evaluated.

Standard 2 - Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated.

The proposed changes do not involve any changes in plant hardware or in plant power operation. Although some of the proposed changes will result in modification to the operating procedures and plant operation in the shutdown modes, operation of the facility in accordance with the proposed changes

will not create the possibility of a new or different kind of accident from any accident previously evaluated since the effects of the changes are within the envelope of previously evaluated accidents.

Standard 3 - Involve a Significant Reduction in a Margin of Safety

The proposed Shutdown Margin for plant operation in the shutdown modes would be reduced, so that the time between the start of an inadvertent boron dilution accident and the complete loss of the shutdown margin would be reduced from 95 minutes to 52 minutes. However, as indicated in the discussion under Standard 1, there is still sufficient time to alert the operator of an unplanned boron dilution accident (15 minutes required in Modes 1 through 5, and 30 minutes required in Mode 6). Also, the lower logarithmic power level trip setpoint and automatic removal of the CPC manual bypass at a lower power level would result in an earlier reactor protective system actuation for the postulated transients. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Based on the above considerations, the Commission proposes to determine that the proposed amendments do not involve any significant hazards considerations.

Local Public Document Room location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: George W. Knighton

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: July 28, 1987.

Description of amendment request: This amendment will revise Technical Specification Table 4.2.A to specify the correct calibration frequency for the reactor high pressure instrument channel. The installation of an Analog Trip System (ATS) at Pilgrim Station required a change to the Technical Specifications. The change was granted by the NRC as Amendment No. 99, which became effective on April 2, 1987. Incorrectly included in both the proposal and Amendment No. 99 was a change to the surveillance frequency of the Reactor High Pressure instrument channel. This instrument channel was not part of the ATS modification, and its Technical Specification surveillance requirements should not have been changed.

Basis for proposed no significant hazards consideration determination: A proposed amendment to an operating license for a facility involves no significant hazards considerations if the three standards of 10 CFR 50.92(c) are met. Pursuant to the provisions of 10 CFR 50.91, the licensee has provided an analysis of no significant hazards considerations using the Commission's standards. The Commission's staff agrees with the licensee's analysis. Each standard of 10 CFR 50.92(c) is discussed in turn.

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change returns the minimum test and calibration frequency for the Reactor High Pressure instrument channel to the frequency specified before Technical Specification Amendment No. 99 was issued. Since the change made to the reactor High Pressure instrument channel by Amendment No. 99 should not have been made, this change returns the surveillance frequency requirements to values that have been previously evaluated and accepted.

2. The proposed amendment will not create the possibility of a new or different kind of accident from an accident previously evaluated.

Since this proposed change will correct a past change to the Technical Specifications by reestablishing the original requirements, there is no possibility of creating a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

The margin of safety for this instrument channel will be unchanged since the minimum test and calibration frequency will be restored to the original frequency.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: V. Nerses.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: May 4, 1987

Description of amendment request: This amendment request would revise the surveillance requirements for the containment prestressing system to comply with the draft version of the ASME Boiler and Pressure Vessel Code, Section XI, Subsection IWL and proposed Revision 3 to Regulatory Guide 1.35.

Basis for proposed no significant hazards consideration determination: The licensee has performed an analysis regarding the no significant hazards consideration as follows:

The proposed revision to the surveillance method incorporates current methods of conducting inservice inspections of prestressed concrete containments. The proposed changes incorporate the revisions agreed upon by the NRC and Consumers Power Company in the resolution of SEP Topic III-7.A as described in the Integrated Plant Safety Assessment, NUREG-0820, October 1982. The revisions to the method of conducting lift-off readings and conducting of the laboratory testing and acceptance criteria are acceptable methods per the pending ASME B&PV Code, Section XI, Subsection IWL. There are no changes to the physical part of the surveillance field activities. The deletion of several sections in the specifications is considered editorial to remove obsolete requirements that have been previously accomplished and described in the Updated FSAR. As a result, there is no increase in the probability of occurrence or consequences of an accident or malfunction of equipment and the possibility of a new or different accident has not been created.

The change does not result in a reduction in the margin of safety as defined in the basis of the Specifications as in the FSAR. The revisions in measurement methods, definition of laboratory testing and acceptance criteria do not affect the basis of the Specifications.

Additionally, the number of tendons undergoing complete detensioning has been reduced from the previous requirements. This acceptable reduction ensures the margin of safety of the containment structure is not affected by detensioning and retensioning a larger sample than is necessary to conduct an appropriate surveillance program.

The Commission's staff agrees with this determination and therefore proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212

West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Martin J. Virgilio.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: May 28, 1987

Description of amendment request: This amendment request would remove the Tables of specific piping snubbers from the Technical Specifications in accordance with the guidance in NRC Generic Letter 84-13, delete the numerical value of the acceptance criterion for drag force for mechanical snubbers, and clarify the functional testing requirements for snubbers of rated capacity greater than 50,000 pounds.

Basis for proposed no significant hazards consideration determination: The licensee has made the following analysis with regard to the significant hazards consideration:

The deletion of Tables 3.20.1 and 3.20.2, "Safety Related Hydraulic and Mechanical Shock Suppressors (Snubbers)," from the Technical Specifications is addressed in NRC Generic Letter 84-13, and is acceptable as long as the Technical Specifications are modified to specify which snubbers are to be operable. This has been done in Technical Specification 3.20 by stating that the only snubbers excluded from Technical Specifications requirements are those snubbers that are installed on non-safety related systems, and then only if their failure, or failure of the system on which they are installed, would have no adverse effect on any safety related system. The snubbers that the proposed requirements are applicable to are those listed in present Tables 3.20.1 and 3.20.2. The information contained in Tables 3.20.1 and 3.20.2 will be retained in Engineering Manual (EM) 09-07, "Testing of Plant Snubbers."

Any future deletion of snubbers now listed in Tables 3.20.1 and 3.20.2 would constitute a specification or facility change and require a subsequent change be made to EM-09-07; thus, requiring a 10 CFR 50.59 Safety Evaluation to be performed and subsequent review by the Plant Review Committee (PRC). These administrative controls governing plant modifications will ensure that neither the probability of occurrence nor the consequences of an accident or malfunction of equipment important to safety are increased by removing the tables from the Technical Specifications. The administrative controls also will ensure the possibility of an accident or malfunction of a different type will not be created with removal of the tables.

The changes in Technical Specification 4.16.1c were made to clarify the plant's current practice of testing 25% of snubbers with rated capacity greater than 50,000 pounds each refueling outage. Snubbers in this category are considered a separate entity from all others which are functionally tested in a representative sample lot consisting of 10% of the total each inspection period per ASME Code, Section XI. Therefore, snubbers of rated capacity greater than 50,000 pounds will receive a higher frequency of testing, so that the possibility of occurrence or consequences of an accident or malfunction of equipment important to safety is decreased.

The deletion of the specific mechanical functional test acceptance criteria value from Technical Specifications will not increase the probability of occurrence of an accident or malfunction of equipment important to safety, because the specific acceptance criteria value will be (as it currently is) controlled in a Technical Specification Surveillance Procedure. This is consistent with the current treatment of hydraulic snubbers and the manner in which acceptance criteria are presented in Standard Technical Specifications. Surveillance Procedures governing the functional testing of both mechanical and hydraulic snubbers are controlled procedures requiring a PRC review, and require a 10 CFR 50.59 Safety Evaluation be performed prior to procedure revision. These administrative controls, including the procedures, reviews, and safety evaluations will ensure the possibility of an accident or malfunction of a different type has not been created by this Technical Specifications Change. With the administrative controls, the deletion of the specific test acceptance criteria will not affect the margin of safety.

The removal of the snubber tables from the Technical Specifications in conjunction with the addition of the redefined Applicability statement in proposed Specification 3.20 does not affect the margin of safety.

The proposed functional test requirements in Specification 4.16.1c and the bases for 4.16 were changed to incorporate the commitment to test 25% of the snubbers with rated capacity greater than 50,000 pounds during each refueling outage. These proposed changes represent additional Technical Specification controls that exceed the required ASME Code, Section XI requirements for sample size (i.e., 25% of the total each refueling outage versus 10% of the total each inspection period). These additional controls will increase the margin of safety that is defined in the basis of the Technical Specifications.

The Commission's staff agrees with this analysis and therefore proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Martin J. Virgilio.

Dairyland Power Cooperative, Docket No. 50-409, LaCrosse Boiling Water Reactor, LaCrosse, Wisconsin

Date of amendment request: June 17, 1987

Description of amendment request: The licensee proposes that License No. DPR-45 for the permanently shutdown and defueled LaCrosse Boiling Water Reactor (LACBWR) be amended to: (1) revise the Technical Specifications (TS) to state that the reactor will not be operated; (2) delete TS requirements for reactor nuclear instrumentation channels to be in operation; and (3) delete TS requirements to perform inservice inspection of high pressure primary systems and the TS requirement to use NUREG-0313, Revision 1, to govern repair and replacement of piping.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation and/or maintenance of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes with respect to 10 CFR 50.92(c) and has determined that the proposed amendment would not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated. Removing the TS reference to reactor operation is strictly an administrative change to support the previously

proposed license amendment for possess-but-not-operate status. Eliminating the requirement to keep a nuclear instrumentation channel in operation will have no effect on accident probability or consequences, since the reactor has been permanently shut down and defueled. Terminating inspection of piping that will no longer be used as a pressure boundary and inspection of components which will no longer be utilized cannot increase the probability or consequences of an accident, since there will be no significant adverse consequences if these components fail. Additionally, removing requirements dealing with NUREG-0313, which applies to BWR Coolant Pressure Boundary piping above 200° F, will have no effect on the probability or consequences of an accident, since the plant will not be in the condition for which the NUREG was written;

(2) create the possibility of a new or different kind of accident from any accident previously evaluated. Non-operation of the reactor will not create the possibility of a new type of accident. Eliminating the need to monitor a defueled reactor with nuclear instrumentation cannot cause a new type of accident because there is nothing for the instrumentation to monitor. Terminating inspection of piping and components not required to be operable cannot cause a new type of accident, since unneeded piping and components pose no new accident threat; or

(3) involve a significant reduction in a margin of safety. Cessation of plant operation will not cause a reduction in the margin of safety since the margin of safety relates to plant operation. Eliminating neutron monitoring of a reactor with no fuel assemblies in it cannot reduce the margin of safety. Termination of inservice inspection of unused primary system piping and components and of related systems will have no effect on the margin of safety. Deletion of requirements pertaining to NUREG-0313 will have no effect on the margin of safety, since the primary system is in a cold shutdown status and the NUREG applies to a reactor coolant pressure boundary above 200° F.

Based on the above, the licensee has determined that the proposed amendment does not involve a significant hazards consideration. The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: LaCrosse Public Library, 800 Main Street, LaCrosse, Wisconsin 54601.

Attorney for licensee: Kevin Gallen, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: March 9, 1987

Description of amendment request: The proposed amendment covers a number of pages in the Technical Specifications addressing allowable enrichments and configurations for fuel stored in the spent fuel storage pool. The affected specifications are:

1. Section 3.9.14 and an accompanying Table 3.9-1 would be added to specify allowable enrichment and configurations for stored fuel.

2. Basis Section 3/4.9.14 would be added to provide the bases for the above specifications.

3. Section 5.3.1 would be amended to specify a higher enrichment of 4.5 weight percent U-235 (currently 3.3 weight percent), and

4. Section 5.6.1 would be revised to reference appropriate sections in the FSAR where the spent fuel pool criticality analysis can be found.

The proposed new specifications, with associated guidance incorporated into existing administrative controls would permit storage of fuel with up to 4.5 weight percent U-235. The pool would be separated into two regions. Spent fuel pool region 1 would provide for storage of fuel with enrichments up to 4.5 weight percent U-235 in an administratively controlled 2-of-4 cell array and up to 4.0 weight percent U-235 in an administratively controlled 3-of-4 cell array. Region 2 would provide for storage of fuel assemblies with the burnup-dependent enrichment limitations provided in Table 3.9-1. Also, the boron concentration in the spent fuel pool would be specified to be maintained at greater than or equal to 1050 ppm when moving fuel in the spent fuel pool. Sub-criticality would be maintained by limiting fuel assembly interaction and maintaining the minimum boron concentration.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

There is no change in fuel pool hardware, but the associated Updated Final Safety Analysis Report will be changed to include analyses to demonstrate that fuel pool and stored fuel will comply with unchanged performance objectives and limitations (e.g., criticality and heat dissipation). The criticality analysis acceptance criteria (K_{eff} less than 0.95) is consistent with that stated in the FSAR. The segregation of the spent fuel pool into regions 1 and 2 and appropriate administrative constraints ensure that analysis assumptions are valid and that performance criteria would be met when fuel is not being moved. In addition to the administrative constraints available to maintain appropriate fuel storage configurations, the minimum boron concentration will ensure that criticality will not be achieved even if new fuel assemblies were not stored in the specified checkerboard arrays. Fuel assembly decay heat production is a function of core power level, and since the core power level would remain unchanged, the decay heat load on the spent fuel pool cooling system would not be affected by the proposed enrichment limits.

The radiological consequences of the fuel handling accident are dependent, among other factors, upon power level of the reactor. There is no power level change associated with the proposed amendment and since all other factors would not be changed by this amendment, the consequences of the fuel handling accident would not be changed.

No hardware modification is involved and the changes to existing administrative controls involve only prescription of the loading patterns to accommodate a greater variety of fuel assembly enrichments without change in performance, there is no increase in the probability of the fuel handling accident previously analyzed in the FSAR, and there is no possibility of a new or different type of accident from any previously evaluated. Furthermore, there is no change in any acceptance criterion as stated above; therefore there is no reduction of a safety margin.

Accordingly, the staff has made a proposed determination that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John F. Stolz

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: June 9, 1987

Description of amendment request: The wall separating the Unit 1 and Unit 2 control rooms was removed to provide a common control room area for the two units. The Beaver Valley Unit 2 accident analyses indicate that the control room must be isolated on a high radiation signal in order to meet 10 CFR Part 50, Appendix A, General Design Criterion 19. This is described in Sections 6 and 15 of the Unit 2 FSAR. As a result, two area radiation monitors were added to the Unit 2 side of the shared control room and two area radiation monitors were installed in the Unit 1 side.

The proposed amendment would impose currently nonexistent specifications on these new radiation monitors. These specifications would be added to Tables 3.3-6 and 4.3-3 of the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (51 FR 7751). One of these examples of actions involving no significant hazards considerations is example (ii), which is "a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications." The accidents these new monitors are designed to protect against have been defined in the Unit 2 FSAR and are a result of different licensing criteria applying to Unit 2 compared to Unit 1. Therefore, there is no equivalent accident analysis for Unit 1. The imposition of the requested amendment thus matches the quoted example and the staff, therefore, proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John F. Stolz

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: July 1, 1987

Description of amendment request: The proposed amendment would revise the battery (emergency d-c power) surveillance requirements to reflect a design change and the battery manufacturer's recommendation:

(1) The licensee upgraded the design of the batteries in accordance with 1EEE 535-1979, "Qualification of Class 1E Lead Storage Batteries for Nuclear Power Generating Stations." The proposed amendment to Section 4.8.2.3.2 would specify the battery terminal voltages for 59-cell and 60-cell designs in accordance with the manufacturer's recommendation.

(2) Table 3.8-1, "Battery Surveillance requirements," would be revised to impose requirements on cell voltage and electrolyte specific gravity for the new cells, in accordance with the manufacturer's recommendation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (51 FR 7751). One of these examples of actions involving no significant hazards considerations is example (ix) which involves "A repair or replacement of a major component or system important to safety, if ...repair or replacement component or system does not result in a significant change in its safety function or a reduction in any safety limit (or limiting condition of operation) associated with the component or system." The requested amendment matches this example and the staff, therefore, proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John F. Stolz

Duquesne Light Company, Docket No. 50-412, Beaver Valley Power Station, Unit No. 2, Shippingport, Pennsylvania

Date of amendment request: July 14, l6, 22 and 31, 1987

Description of amendment request: The proposed amendment would revise the lowpower license (NPF-64), or the full-power license if it had been issued to supersede the low-power license, to allow sale and leaseback transactions by each of the four current owners (Duquesne Light Company, Ohio Edison Company, Cleveland Electric Illuminating Company and Toledo Edison Company) relating to their respective ownership interest in Beaver Valley Unit 2 (BVPS-2).

Specifically, the utilities request authorization for transfer of their ownership interests in BVPS-2 to equity investors, and for the simultaneous transfer by the equity investors back to the utilities of a long-term (approximately 29.5 years) possessory leasehold interest of these shares under the terms described in the requests for amendment and other identified documents.

The utilities stated that the equity investors will be third parties not affiliated with them. These equity investors might include electric utilities, or affiliates or subsidiaries thereof, in which case antitrust considerations may be present. Under the proposed transaction, the utilities would remain in possession of their partial interests in the BVPS facilities under leaseholds rather than by virtue of ownership. Duquesne Light Company would continue to be the sole licensed operator of the facility in accordance with the BVPS-2 operating license. Each utility will have the full and exclusive authority and responsibility to exercise and perform all of its rights and duties as a party to the BVPS operating agreement. Each utility will also retain its responsibility for the payment of its share of the operating and maintenance expenses and costs of capital improvements during the term of the leaseholds and thereafter, in the absence of other Commission action, for its share of the cost of decommissioning BVPS-2.

The proposed amendment is similar to two already approved for Palo Verde Nuclear Generating Station, Units 1 and 2, and Perry Nuclear Power Plant, Unit 1.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed

amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed amendment would not change or affect any aspect of the plant design, criteria or operation. The amendment would maintain each utility in possession of its present interests in BVPS-2 and each utility will continue to be obligated to pay its share of all costs of construction, maintenance, operation, capital improvements and decommissioning. The equity investors would not have any rights of possession in, or control over BVPS-2. Duquesne Light Company would continue to be the sole licensee authorized to use and operate the facility.

Based on the above considerations, the staff concludes that the proposed amendment meets the three criteria in 10 CFR 50.92(c), and therefore proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John F. Stolz

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: May 20, 1987

Description of amendment request: The proposed change would revise the Technical Specifications to reflect the installation of the dedicated emergency feedwater tank which will be the primary source of water for the emergency feedwater (EFW) system, rather than the existing condensate storage tank. Design of the EFW tank was previously reviewed and approved by the NRC staff.

Basis for proposed no significant hazards consideration determination: The licensee stated that the design of the dedicated EFW tank meets or exceeds the design requirements of the existing EFW system primary water source (condensate storage tank). The EFW tank has been designed to withstand the effects of environmental loads including tornado missiles. It has also been designed to provide an increased useable volume of condensate quality water.

The licensee evaluated the proposed change in accordance with the standards of 10 CFR 50.92(c) and, based on the above, determined that operation in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequence of an accident previously evaluated because of the increased reliability and capability of the EFW tank.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no new mode of plant operation and provides for an additional volume of water for the EFW system.

(3) Involve a significant reduction in the margin of safety. This change will increase the margin of safety relative to cooldown of the reactor coolant system because it will increase the cooling capability of the EFW system.

The licensee therefore proposes that this amendment does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's evaluation. Based on the foregoing, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Crystal River Public Library, 668 NW., First Avenue, Crystal River, Florida 32629

Attorney for licensee: R. W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P. O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Lester S. Rubenstein

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: May 13, 1987

Description of amendment request: The amendments would modify the technical specifications dealing with containment atmosphere hydrogen analyzers (TS 3/4.6.4.1). The analyzers provide containment hydrogen concentration indication to control room operators under accident conditions. If the amendments are approved, both St. Lucie Units will have the same hydrogen analyzer technical specifications. Each unit has different technical specifications at the present time.

With regard to Unit 2, the licensee proposes to modify the action statement which deals with an inoperable analyzer, and modify the sample gas requirements. Presently, an inoperable analyzer must be returned to service within 30 days. If it is not returned to service within 30 days, the reactor must be placed in at least a hot standby condition within the next 6 hours. The licensee proposes to modify the action statement such that if the inoperable analyzer is not returned to service within 30 days, a backup grab sample system will be activated within 24 hours and used until the inoperable analyzer is returned to service. Operability of the grab sample system will be confined at least once per 30 days thereafter. The licensee states that if the grab sample system is used in place of the inoperable analyzer, the grab samples would be analyzed for hydrogen concentration at an on-site laboratory.

Sample gases are used to periodically calibrate the analyzers. The present sample gas specifications for Unit 2 state one volume percent hydrogen, balance nitrogen and oxygen, and four volume percent hydrogen, balance nitrogen and oxygen. The licensee proposes to place the word "nominally" before the words "one" and "four." The licensee states that the proposed use of the word "nominally" is to account for slight variations in vendor supplied calibration samples.

In connection with Unit 1, the licensee proposes similar changes and additional changes. Presently, the limiting condition for operation (LCO) states that the containment hydrogen analyzer and grab sample system shall be operable. The licensee proposes to use the words "Two independent containment hydrogen analyzers shall be operable," as the new LCO. This would be the same LCO that is presently contained in the Unit 2 TS. The present action statement requires repair of the hydrogen analyzer or grab sample system within 30 days, if either one is declared inoperable. If repairs are not made within 30 days, the reactor must be placed in at least the hot standby condition within the next 6 hours. The licensee proposes the same action statement proposed for Unit 2 as described above. The hydrogen analyzer for Unit 1 must presently be demonstrated operable at least once every 92 days; the proposed surveillance frequency is 31 days, like Unit 2. The same sample gas requirements as Unit 2 are proposed, namely, adding the word

"nominally" as described above. Oxygen will also be added to the sample gas requirements, like Unit 2. The grab sample system surveillance requirement to demonstrate the system's operability at least once per 92 days by drawing a sample will be deleted, and the grab sample system surveillance will be made part of the action statement, like Unit 2, as described above. Lastly, the licensee proposes to delete the requirement to periodically verify that the analyzer is aligned to receive electrical power from an operable emergency bus.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards considerations exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the first standard, the licensee provided the following analysis for the Unit 1 application.

The change to show oxygen as part of the sample gas required for channel calibration is a correction required to bring the Technical Specifications into conformance with the hydrogen analyzer instruction manual. It is purely a wording clarification and has no physical effect on the operation of the hydrogen analyzer. Therefore, this modification does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The inclusion of the grab sample laboratory analysis being a substitution for the local hydrogen analyzer analysis cannot involve a significant increase in the probability or consequences of an accident previously evaluated because:

(a) the same containment sample flow path is used;

(b) the same sample pump is used with the two systems so that the sample through either is the same; and

(c) the method of grab sample laboratory analysis requires a calibration as part of the analysis. This ensures accuracy during analysis.

The proposed changes to show two independent hydrogen analyzers are available do not involve a significant increase in the probability or consequences of an accident previously evaluated because:

(a) the rewording describes the actual hydrogen analyzer system in terms of its components and thus creates a clear presentation of the system's design which is described in FSAR Section 6.2.5;

(b) the changes to the action and surveillance requirements establish the the guidelines to insure that sufficient hydrogen sampling capability is available in the event of an accident.

(c) the electrical power alignment verification is no longer necessary in that each of the redundant subsystems is powered from an independent on-site emergency power source. No single failure can result in a total loss of hydrogen concentration measurement capability.

In addressing the first standard for the Unit 2 application, the licensee provided the following analysis:

The inclusion of the grab sample laboratory analysis being a substitution for the local hydrogen analyzer analysis cannot involve a significant increase in the probability or consequences of an accident previously evaluated because:

(a) the same containment sample flow path is used;

(b) the same sample pump is used with the two systems so that the sample through either is the same; and

(c) the method of grab sample laboratory analysis requires a calibration as part of the analysis. This ensures accuracy during analysis.

In connection with the second standard, the licensee states the following for the Unit 1 application:

A new or different kind of accident than any previously evaluated is not possible as a result of the specification being modified to include oxygen as part of the sample gas because oxygen is part of the calibration process described by the vendor. By accurately describing the gases required for calibration, the method of calibration and the capability of hydrogen monitoring during an accident does not change.

A new or different kind of accident than any previously evaluated is not created by the specification being modified to allow for the laboratory analysis of the grab sample. This grab sample is an alternative method of monitoring the containment atmosphere after an accident and is not a possible cause of a new or different kind of accident.

A new or different kind of accident than any previously evaluated is not created by the specification being modified to indicate that two independent hydrogen analyzers are available for monitoring the containment atmosphere. Providing the operability checks and action statements is a clarification and an administrative change to insure system availability during an accident. This system is for accident monitoring and cannot create a new or different accident.

In addressing the second standard for the Unit 2 application, the licensee provided the following analysis:

Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

A new or different kind of accident than any previously evaluated is not created by the specification being modified to allow for the laboratory analysis of the grab sample. This grab sample is an alternative method of monitoring the containment atmosphere after an accident and is not a possible cause of a new or different kind of accident.

Regarding the third standard, the licensee states for the Unit 1 application:

The hydrogen analyzers, while being required by Technical Specifications, do not have an active part in the determination of margin of safety. The change in sample gas description, the clarification of system composition, the inclusion of an alternate method of analysis and deleting the surveillance requirement to verify electrical alignment do not change the function or accuracy of the hydrogen analyzer system.

In the case of the Unit 2 application for the third standard, the licensee states:

The hydrogen analyzers, while being required by Technical Specifications, do not have an active part in the determination of margin of safety. The inclusion of an alternate method of analysis does not change the function or accuracy of the hydrogen analyzer system.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff believes that the licensee has met the three standards.

Based upon the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Lester S. Rubenstein

GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: June 19, 1987 (TSCR 146)

Description of amendment request: The June 19, 1987 application for license amendment requested three changes to the Technical Specifications. These changes are: (1) add additional condition to Section 4.3.G which would require performing the existing leak tests on the Core Spray Testable Check

Valves, (2) organizational changes of GPU Nuclear Corporation. The amendment would be reflected as changes to the corporate and site organization charts and relevant text in the Technical Specifications, and consists of replacing pages 6-3, 6-4, 6-5, 6-6, 6-7, 6-12 and 6-14 with revised information, and (3) revise Section 6.10.1.C to replace the words "Reportable Occurrence Reports" with "All Licensee Event Reports."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the probability of a new or different kind of accident from any accident previously evaluated or (3) involve a significant reduction in a margin of safety.

Change 1

The licensee stated that the proposed Change 1 does not involve a significant hazards consideration because:

1. The change would not involve a significant increase in the probability or consequences of an accident previously evaluated. To the contrary, the additional testing requirements decrease the probability of an accident and do not affect the consequences of the accident.

2. The change does not create the possibility of a new or different kind of accident from any previously evaluated. The new requirement is one of frequency, utilizing existing approved test methods.

3. The change does not involve a significant reduction in the margin of safety. The additional testing does not affect the margin of safety.

The staff concurs with the licensee's assessment and proposes to determine that change 1 of the requested amendment involves no significant hazards consideration.

Change 2

In the Amendment Request of June 19, 1987, and in its letter of July 14, 1987, the licensee stated that the proposed changes do not involve a significant hazards consideration because:

The proposed change is similar to Example (i) of the "Amendments not likely to Involve Significant Hazards Consideration" from the Federal Register Vol. 48, No. 67 at 14870 on April 6, 1983.

This change is an administrative change in the corporate organization. As such, this TSCR does not involve significant hazards considerations as stated below.

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The Corporate organization was never determined to be an initiator of any accident previously evaluated in the SAR. Even so, the probability of occurrence or the consequences for any previously evaluated accident are not modified by this change as the functions and responsibilities of affected groups remain essentially unchanged.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

The reorganization does not in itself modify or change an operating parameter for any safety related component. Therefore, this activity does not increase the probability of occurrence or consequence of an equipment malfunction.

This activity modifies in part the Corporate organization by grouping the Nuclear Safety Assessment, Licensing and Long Range Planning functions into one Division. By this arrangement, the organization can provide an independent focus on the issue of safety, and the prioritization of plant modifications. Furthermore, the reorganization does not change the technical resources previously established to perform the quality assurance, radiological and environmental control, training and security functions.

(3) Involve a significant reduction in a margin of safety.

This change does not reduce the margin of safety which was defined in the SAR. The reorganization was a managerial change to increase the awareness of nuclear safety within the organization by the realignment of functional responsibilities. The functions and responsibilities of the functional groups affected by the reorganization remain as described in the Licensing Basis Documents.

The staff concurs with the licensee's assessment and proposes to determine that Change 2 of the requested amendment involves no significant hazards consideration.

Change 3

The licensee stated that this change is purely administrative and involves no technical changes, no new increase in the probability nor consequences of an accident is affected. No new kind nor previously unanalyzed accident is affected. No safety margin of an analyzed accident is affected.

In the staff's letter of December 18, 1986, we requested that GPU Nuclear Corporation change the wording in Technical Specification 6.10 to align with present terminology. Therefore, the staff concurs with the licensee's assessment and proposes to determine that Change 3 of the requested amendment involves no significant hazards consideration.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753

Attorney for licensee: Ernest L. Blake, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

GPU Nuclear Corporation, Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: July 13, 1987 (TSCR 170]

Description of amendment request: The proposed amendment would add a license condition on an integrated schedule for modifications to the license for TMI-1. This new condition would require the licensee to follow the Plan for the Long Range Planning Program for Three Mile Island, Unit 1 (TMI-1) but would allow changes to the date for the completion of items identified in Categories B and C of the Plan to be changed without a license amendment. Dates for Category A items would be changed in accordance with applicable NRC procedures.

The submittal date for the Plan was inadvertently omitted from the wording of the proposed license condition. The Plan was submitted in the licensee's amendment request dated July 13, 1987 and this date will be considered part of the proposed wording.

Basis for proposed no significant hazards consideration determination: The licensee proposed Technical Specification Change Request (TSCR) No. 170 to add new requirements concerning its long range planning for TMI-1. It has evaluated TSCR 170 to determine if a significant hazards consideration exists. The results of this evaluation are given below in terms of the criteria in 10 CFR 50.92(c):

Generic Letter 85-07, dated May 2, 1985 requested nuclear power plant licensees to document intentions regarding implementation of the Integrated Implementation Schedule concept. GPU Nuclear responded by

letter dated August 27, 1985 indicating our intention to pursue the development of an Integrated Implementation Schedule for both Oyster Creek and Three Mile Island-Unit 1. The proposed license amendment incorporating the Plan for the Long Range Planning Program (which follows) into the operating license by reference as stated above is hereby requested.

This amendment request is to incorporate the Plan for the Long Range Planning Program (LRPP) into the Three Mile Island Nuclear Station-Unit 1 Operating License (DPR-50). The LRPP by itself has no safety function but the projects listed on the Long Range Plan may affect the function of safety systems or components at TMI-1. The LRPP will establish an improved basis for planning, scheduling and implementing significant plant changes.

The primary objectives of the Plan for the LRPP are:

(1) To optimize the allocation of GPUN and NRC resources to those projects necessary to assure safe, reliable and economic plant operation.

(2) To achieve the appropriate balance and prioritization between GPUN initiated projects and NRC required projects.

The Plan contains three categories of projects, as follows:

Category A: All projects involving regulatory issues which have resolutions and/or issue resolution dates mandated by NRC rules, order or license conditions.

Scheduled completion for Category A items will be modified only upon receipt of prior approval from the NRC in accordance with applicable NRC procedures.

Category B: Projects involving issues identified by the NRC and/or GPUN for which written commitments have been made to the NRC by GPUN. The issue resolutions would result in significant (a) plant modifications, (b) procedure revisions, or (c) changes in facility staffing requirements.

GPUN will inform the TMI-1 NRR Project Manager when a change is made to the schedule for a Category B project. GPUN will provide the NRC with written notification of a change including the basis for the change and any compensatory action initiated.

Category C: Other major projects, identified by GPUN or other regulatory agencies.

GPUN will advise the NRC of changes to Category C projects semiannually. The long range planning function is not currently described in any Licensing Basis Document. It was initiated by GPUN in 1984 for Oyster Creek and later in 1985 for TMI-1 to establish controls for the efficient utilization of resources to implement identified projects which significantly impact available resources. The proposed amendment would incorporate this function as a license condition.

The LRPP by itself has no safety function. The projects which comprise the Long Range Plan may affect the function of plant systems important to safety; however, any changes in plant configuration or operation resulting from projects in the Long Range Plan are required to be evaluated separately in accordance with safety review and/or configuration control procedures. The long range planning function results in a prioritization and ranking of projects so that appropriate implementation schedules can be established.

The proposed license amendment does not in and of itself result in any change to Technical Specifications. Therefore, margins of safety stated in Technical Specification bases are not changed.

Significant Hazards Consideration

We have determined, based upon the above discussion, that this license amendment request involves no significant hazards considerations in that operation of TMI-1 in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of any accident previously evaluated; or

2. Create the possibility of a new or different kind of accident from any accident previously evaluated; or

3. Involve a significant reduction in margin of safety.

In summary, the basis for the above determination is as follows:

The establishment as a license condition of the Plan for the Long Range Planning Program by itself performs no safety function. The long range planning function does not directly change plant configuration or operation. Projects contained in the Plan may affect systems important to safety; however, any impact resulting from these projects is evaluated separately in accordance with applicable safety review and/or configuration control procedures. As no changes to Technical Specifications occur as a direct result of this proposed amendment there is no change in margins of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126

Attorney for licensee: Ernest L. Blake, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: June 18, 1987.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to increase the leak detection setpoints and allowable values for the reactor water cleanup (RWCU) system heat exchanger room ambient and differential temperatures and decrease the reactor core isolation cooling (RCIC) system isolation trip setpoint and allowable value for the residual heat removal (RHR)/RCIC steam line flow-high. The proposed amendment would modify the TSs as follows:

(1) Item 4.c.1. of Table 3.3.2-2 would be changed to increase the RWCU system isolation trip setpoint for heat exchanger room equipment area temperature high from less than or equal to 98.5° F to less than or equal to 104.5° F and the allowable value would be increased from less than or equal to 101.5° F to less than or equal to 107.5° F. Item 4.d.1. of Table 3.3.2-2 would be changed to increase the RWCU system isolation trip setpoint for heat exchanger room equipment area differential temperature-high from less than or equal to 33° F to less than or equal to 39° F and the allowable value would be increased from less than or equal to 36.5° F to less than or equal to 42.5° F.

(2) Item 5.1. of Table 3.3.2-2 would be changed to reduce the initial RCIC system isolation trip setpoint for RHR/RCIC steam line flow-high from less than or equal to 156 inches of water to less than or equal to 60.7 inches of water and the allowable value would be decreased from less than or equal to 164.5 inches of water to less than or equal to 64.2 inches of water.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or

consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee addressed the above three standards in the amendment application.

(1) Increase the leak detection setpoints and allowable values for the RWCU system heat exchanger room ambient and differential temperatures. With regard to the three standards, the licensee states:

a. No significant increase in the probability or the consequences of an accident previously evaluated results from this change because:

Actual plant operating temperatures were used as the initial temperature from which the resulting temperature caused by a 25 gpm steam leak after one hour was calculated. The subject building zones have been evaluated for effect of environmental qualification of safety related equipment. The required changes to equipment qualifications have been determined and documented. The design bases for leak detection have been unchanged. Other leak detection instrumentation available inside containment are: detection of level increases in containment floor drain sump, equipment drain sump and also monitoring of pump turn on and off times. The containment floor drain sump monitors unidentified leakage and activates an alarm when total leakage reaches 5 gpm. The containment equipment drain sump monitors identified leakage and also alarms in the main control room. In addition, the containment radiation monitors are also available to provide an indication of reactor coolant pressure boundary leakage.

b. This change would not create the possibility of a new or different kind of accident from any accident previously evaluated because:

GSU is selecting setpoints which follow the original setpoint bases and prevent unnecessary or inadvertent isolations yet maintains the margin of safety as defined in the Technical Specification. The primary difference between the previous setpoint and the proposed setpoint is that the current setpoint is based on actual data versus predicted data.

Reviews have been performed to ensure that the existing design of equipment and structures can withstand the higher normal operating temperatures and equipment qualification and qualified life of equipment has been revised as necessary. Changes made do not add new equipment nor do they affect the function or operations of existing equipment or structures.

c. This change would not involve a significant reduction in the margin of safety because:

Calculations have been performed due to higher actual plant temperatures to ensure that the safety margin is maintained. The applied setpoint methodology, utilizing the actual temperature data, accounts for instrument inaccuracies and drift. The original design criterion for the ability to isolate prior to a 25 gpm leak has been maintained. Therefore, no significant reduction in the margin of safety is being proposed.

The proposed amendment, as discussed above, has not changed the system design, function and operation contained in the FSAR. Therefore, it will not increase the probability or the consequences of a previously evaluated event and will not create a new or different event. As a result, the ability to perform, as described in the FSAR, is maintained. Therefore, the proposed changes do not result in a significant reduction in the margin of safety. GSU proposes that no significant hazards are involved.

(2) Decrease the RCIC system isolation trip setpoint and allowable value for the RHR/RCIC steam line flow-high. With regard to the three standards, the licensee states:

a. No significant increase in the probability or the consequences of an accident previously evaluated results from this change because:

The trip setpoint and allowable values are based on an analytical limit equivalent to 125 percent of the maximum steady state flow. The maximum steady state flow is the combined flow of steam to the RHR system while in the steam condensing mode (both A & B Loops) plus the flow of steam to the RCIC turbine. This would be the normal lineup after approximately 30 minutes of steam condensing operation. The trip setpoint and allowable values are adjusted below the analytical limit to allow for instrument and calibration accuracies and instrument drift. The setpoint is established high enough to preclude spurious isolations due to normal operational flows, yet low enough to isolate on postulated break flows of downstream piping.

The decreases in the RCIC/RHR steam line flow-high setpoint reduces the consequences of a steam line break in the RCIC/RHR steam supply lines. The main steam line double ended break is the design basis accident for offsite dose consequences.

b. This change would not create the possibility of a new or different kind of accident from any accident previously evaluated because:

The originally specified trip setpoint of less than or equal to 156" H_2O is equivalent to a flow rate which is below the break flow for an eight inch RHR steam line break but may not have been low enough to isolate on a four inch RCIC steam line break. The proposed setpoint will isolate on both the four and eight inch line breaks for downstream piping.

The function of the RCIC/RHR steam line high flow instrumentation remains the same. The less than or equal to 60.7" H_2O trip setpoint will enable the instrument loop to detect and isolate a double ended line break downstream. This was the intended function as originally designed.

c. This change would not involve a significant reduction in the margin of safety because:

The setpoint is being lowered in the conservative direction. There can only be an increase in the margin of safety associated with this setpoint change.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the analysis.

Local Public Document Room Location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Troy B. Conner, Jr., Esq., Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Jose A. Calvo

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: June 23, 1987

Description of amendment request: The proposed Technical Specification (TS) change would require written administrative controls for the implementation of the Process Control Program (PCP). The PCP contains the current sampling and analysis methods to be used to ensure that radioactive waste from liquid systems are properly prepared for shipment to disposal facilities in accordance with applicable Federal and State regulations. Dry active waste such as compacted trash and contaminated components are not included in the scope of the PCP.

Basis for proposed no significant hazards consideration: The Commission has provided standards for determining whether a significant hazard exists as stated in 10 CFR 50.92 (c). 10 CFR 50.91 requires that at the time a licensee requests an amendment it must provide to the Commission its analysis using the standards in 10 CFR 50.92 about the issue of no significant hazards consideration. The licensee has performed that analysis and we have performed an evaluation in accordance with 10 CFR 50.91 (a) (i) to determine whether this proposed change involves a significant hazards consideration as defined by 10 CFR 50.92. A summary of our evaluation follows. This proposed change does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is strictly administrative in nature, and simply requires the implementation of existing procedures in the Technical Specifications.

(2) Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change is strictly administrative in nature, and simply requires the implementation of existing

procedures in the Technical Specifications.

(3) Involve a significant reduction in a margin of safety. The proposed change is strictly administrative in nature. It does not reduce the margin of safety.

Based on our evaluation, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, P. O. Box 367, Wiscasset, Maine 04578.

Attorney for licensee: J. A. Ritscher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Project Director: V. Nerses

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: July 6, 1987

Description of amendment request: The proposed amendment would make three changes in the Technical Specifications (TSs): (1) Surveillance Requirement 4.1.5.d.2 would be changed by increasing the setpoint for the relief valve in the standby liquid control system (SLCS); (2) Technical Specifications 3.4.9.2, 3.5.2, 3.7.1.1, 3.9.11.1 and 3.9.11.2 which specify ECCS and shutdown cooling requirements with the plant in Operational Condition 4, "Cold Shutdown" or Condition 5 "Refueling" would be revised by changing the Action Statements to allow entry into the Operational Mode with inoperable equipment provided the associated Action Requirements are met; and (3) Table 3.3.2-1 and Table 4.3.2.1-1 which specify requirements for containment isolation instrumentation would be changed by deleting certain requirements for instrumentation and the associated isolation valves to be operable in refueling shutdowns when handling irradiated fuel in the primary or secondary containment, making core alterations and performing operations with a potential for draining the reactor vessel.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of significant hazards considerations in its request for a license amendment. The licensee has concluded with appropriate bases, that the proposed amendment satisfies the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations. The NRC staff has made a preliminary review of the licensee's submittal. A summary of staff's review follows.

Change (1) would allow the SLCS relief valve setpoint to be increased to the maximum value allowed by the ASME Boiler and Pressure Vessel Code. This increase is deemed necessary to minimize inadvertent relief valve actuation due to normal pressure fluctuations caused by operation of the positive displacement pump. Because the proposed increase in the pump relief valve setpoint is within the ASME Code allowable value, the change would not significantly increase the probability of previously evaluated accidents (piping failures). The consequences of previously evaluated accidents remain unchanged since the relief valve will still perform its intended function of preventing the SLCS discharge piping from exceeding its design pressure. Therefore the probability and the consequences of an accident previously evaluated would not be significantly increased. Proposed Change (1) does not create the possibility of a new or different kind of accident from any previously analyzed accident because no changes to equipment or procedures would be made. The proposed change does not involve a significant reduction in a margin of safety because the system integrity is assured and the system reliability is increased. The increase in the SLCS pump relief valve setpoint is allowed by the ASME Code and therefore the system is capable of being operated with the increased setpoint without compromising system integrity. The SLCS would be able to deliver its rated flowrate to the reactor without flow being diverted through the relief valve thereby increasing system reliability.

Change (2) would permit greater flexibility during refueling outages by allowing entry into Operational Conditions 4 or 5 with inoperable ECCS or shutdown cooling equipment provided the associated Action Requirements are satisfied. Technical Specification 3.0.4 prohibits entry into an Operational Condition unless the conditions for the Limiting Condition for Operation (LCO) are met without reliance on provisions contained in the Action Requirements. For the TSs indicated, Change (2) would provide an exception to TS 3.0.4 for those Action Statements which allow continued operation for an unlimited period of time. In Generic Letter 87-09 "Sections 3.0 and 4.0 of the Standard Technical Specifications (STS) on the Applicability of Limiting Conditions for Operation and Surveillance Requirements," dated June 4, 1987, the NRC staff stated that conformance to such Action Statements provide a level of safety commensurate with that achieved by the LCO and an exception to TS 3.0.4 should be allowed. This commensurate level of safety is achieved by demonstrating the operability of alternate methods of shutdown heat removal or reactor coolant circulation, by reactor coolant temperature and pressure monitoring or by suspending all operations that have a potential for draining the reactor vessel. Because a commensurate level of safety is provided by meeting the alternative requirements of the Action Statements, the entry into Operational Mode 4 or 5 with certain inoperable equipment would not: involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident from any accident previously evaluated; or involve a significant reduction in a margin of safety.

Change (3) would delete operability and surveillance requirements for certain containment isolation actuation instrumentation for operational conditions during refueling shutdowns when handling irradiated fuel in primary or secondary containment, making core alterations, and performing operations with a potential for draining the reactor vessel. Since Specification 3.6.4 requires that isolation valves be operable when their associated actuation instrumentation is required to be operable, deletion of operability requirements for the instrumentation also deletes the requirement for operability of their associated isolation valves. The proposed change would delete unnecessarily restrictive requirements for isolation valves to be operable during refueling to permit greater flexibility in scheduling and performing surveillance testing, local leak rate testing and maintenance on these isolation valves. One necessary isolation function during refueling is to ensure secondary containment integrity in the event of an accident when handling fuel, making core alterations, or performing work with a potential for

draining the reactor vessel. Secondary containment integrity during the performance of these operations is assured by Specification 3.6.6 which requires secondary containment penetrations not capable of being closed by operable automatic isolation valves to be closed by deactivated automatic valves or other means such as blind flanges. A second necessary isolation function during refueling is to prevent removal of liquid nuclear poison from the reactor by isolating the reactor water cleanup (RWCU) system in the event the standby liquid control system is actuated. This second isolation function is assured by Valve Group 8 in Item 4.h of Table 3.3.2-1, which is unchanged. A third necessary isolation function during refueling is to prevent bypassing of the radiation monitor in the auxiliary building exhaust monitor by isolating the containment and drywell purge system. This third isolation function is assured by Valve Group 7 in Items 1.a and 1.b of Table 3.3.2-1, which is unchanged. The unnecessary isolation function during refueling which is deleted by this proposed change is the isolation of primary containment and the drywell by valves in Valve Groups 6A, 8 and 10 in Items 1.a and 1.h, Valve Group 6B in Item 1.b, and Valve Group 5 in Item 1.c. Changes to Action Statements 20, 22 and 29 and to surveillance requirements in Table 4.3.2-1 would be made to be consistent with the changes made in operability requirements in Table 3.3.2-1. An editorial change to Item 1.h would also be made. Because Change (3) would eliminate only unnecessary isolation requirements for refueling outage operations, the change would not: involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident from any accident previously evaluated; or involve a significant reduction in a margin of safety.

Accordingly, for the reasons cited above, the Commission proposes to determine that the three proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: Lester S. Rubenstein

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: July 9, 1987.

Description of amendment request: The amendments would modify the Technical Specifications (TS) to add acceptance criteria for testing airlock doors.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). These examples include:

A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

10 CFR Part 50 Section III.D.2.b(iv) requires that containment airlock local leak rate test acceptance criteria be stated in the Technical Specifications. The Cooper Nuclear Station Technical Specifications does not presently specify this acceptance criteria. The acceptance criteria are presently specified in plant procedures only. The proposed amendment would not modify the acceptance criteria, but only add them to the Technical Specifications for compliance with the Regulation. The proposed amendment is thus encompassed by the above criterion.

Since the application for amendment involves a change that is encompassed by the criteria for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Jose A. Calvo

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: May 26, 1987

Description of amendment request: The proposed change will revise Technical Specification 3.9.B.5 and the corresponding bases by reducing the allowable outage from 7 days to 24 hours (with the restriction to be in cold shutdown in the next 24 hours) for one of the two 125 volt DC or 24 volt DC battery systems.

Basis for proposed no significant hazards consideration determination: The proposed change to the allowable outage time is more conservative than the 50 percent reduction in allowable outage time recommended by the NRC but longer than the BWR Standard Technical Specification battery outage time of 2 hours. The justification for the proposed 24-hour allowable outage time is:

1. A two-hour allowable outage time allows for an orderly shutdown only.

2. Twenty-four hours allows for evaluation of the battery system problem and allows for minor repairs; e.g., output breaker repair.

3. Unwarranted shutdowns could be avoided, thus reducing the number of thermal cycles to which the plant is subjected.

The licensee has reviewed the attached proposed changes pursuant to 10 CFR 50.59 and has determined that they do not constitute an unreviewed safety question. The probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the Final Safety Analysis Report (FSAR) have not been increased. The possibility for an accident or malfunction of a different type than any evaluated previously in the FSAR has not been created. There has not been a reduction in the margin of safety as defined in the basis for any Technical Specification. These proposed changes will not result in physical changes to the plant or changes in the way the plant is operated.

NNECO has reviewed the proposed changes in accordance with 10 CFR 50.92 and has concluded that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. This change continues to provide repair time while significantly reducing the period of time a battery may be out of service.

2. Create the possibility of a new or different kind of accident from any previously analyzed in the FSAR. The change will not introduce new failure modes.

3. Involve a significant reduction in a margin of safety. By reducing the allowable outage time, the margin of safety is increased.

The NRC has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain

examples (51 FR 7751, March 6, 1986). The changes proposed herein are enveloped by example (ii), a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; e.g., a more stringent surveillance requirement. The proposed change reduces the previously permissible outage period from 7 days to 24 hours.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry, & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: Cecil O. Thomas.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: May 26, 1987

Description of amendment request: The proposed change would clarify the exclusion area boundary. The revised wording would enhance Technical Specification consistency with the design basis plume pathway calculations.

Basis for proposed no significant hazards consideration determination: The proposed change to the Technical Specifications would clarify the exclusion area boundary stating that the nearest site boundary on land is 1,620 feet northeast of the elevated stack, or 2,063 feet northeast of the reactor building.

The licensee has reviewed the attached proposed change pursuant to 10 CFR 50.59 and has determined that it does not constitute an unreviewed safety question. The probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the Final Safety Analysis Report (FSAR) has not been increased. The possibility for an accident or malfunction of a different type than any evaluated previously in the FSAR has not been created. There has not been a reduction in the margin of safety as defined in the basis for any Technical Specification. This proposed change will not result in physical changes to the plant or changes in the way the plant is operated.

The licensee has reviewed the proposed change, in accordance with 10 CFR 50.92, and has concluded that it does not involve a significant hazards consideration in that this change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. There are no physical changes to the plant as a result of the proposed changes, therefore, previously analyzed accidents are not affected.

2. Create the possibility of a new or different kind of accident from any previously analyzed. This change is administrative, and does not affect plant operations. Therefore, no new accident scenarios are created.

3. Involve a significant reduction in a margin of safety. The proposed change has no effect on any margins of safety.

The NRC has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples (51 FR 7751, March 6, 1986). The changes proposed herein most closely resembles example (i), a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. The change serves to clarify the distances used in design basis accident calculations and will also maintain better consistency between Technical Specifications and plume pathway calculations.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry, & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: Cecil O. Thomas.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: June 1, 1987

Description of amendment request: The proposed change will revise Technical Specification 3.7.A.6.c by replacing the phrase "important to safety" with the phrase "necessary to ensure safe plant operation."

Basis for proposed no significant hazards consideration determination: The licensee has reviewed the attached proposed change pursuant to 10 CFR 50.59 and has determined that it does not constitute an unreviewed safety question. The probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the final safety analysis report (FSAR) has not been increased. Additionally, the possibility of an accident or malfunction of a different type than any previously evaluated in the FSAR has not been created. There also has not been a reduction in the margin of safety as defined in the basis for any Technical Specification. This proposed change clarifies which activities are allowed inside containment during reactor operations. It does not change the forty-eight (48) hour limit of Technical Specification 3.7.A.6.c for drywell oxygen concentration greater than 4% (by volume). The change will enhance operator understanding by using the phrase "necessary to ensure safe plant operation" in place of the more ambiguous phrase "important to safety."

The licensee has reviewed the proposed change, in accordance with 10 CFR 50.92, and has concluded that it does not involve a significant hazards consideration in that this change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated, as this change serves to clarify which activities are allowed inside containment during reactor operations. It does not change the 48-hour limit of Technical Specification 3.7.A.6.c for drywell oxygen concentration greater than 4% by volume.

2. Create the possibility of a new or different kind of accident from any previously analyzed. The change does not alter the 48-hour limit and, therefore, has no potential for creating a new accident.

3. Involve a significant reduction in a margin of safety, in that the change does not increase the probability of failure of the Millstone Unit No. 1 containment or the occurrence or consequences of any design basis accident.

The NRC has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples (51 FR 7751, March 6, 1986). The change proposed herein most closely resembles example (i), a purely administrative change to technical specifications; for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. This change will clarify which activities are allowed inside containment during reactor operation and will enhance operator understanding by using the phrase "necessary to ensure safe plant operation" rather than using "important to safety."

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry, & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: Cecil O. Thomas.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: October 14, 1986 and July 21, 1987

Description of amendment request: By applications for license amendments dated October 14, 1986 and July 21, 1987, Northeast Nuclear Energy Company, et al. (the licensee), requested changes to the Technical Specifications (TS) for Millstone Unit 2 as follows: (1) a number of changes to the TS associated with post-TMI plant modifications as addressed in NRC's letter "NUREG-0737 Technical Specifications (Generic Letter No. 83-37)," dated November 1, 1983, (2) Limiting Conditions for Operation (LCOs) and Surveillance Requirements (SR) for the main steam radiation monitors which would be added to existing TS 3/4.3.3.8, "Accident Monitoring Instrumentation," and (3) an instrument identified in TS Table 3.3-11 as the "Safety Valve Position Indicator Acoustic *Flow* Monitor" would now be identified as "Safety Valve Position Indicator Acoustic Monitor."

Basis for proposed no significant hazards consideration determination: On November 1, 1983, a letter was sent by the Director, Division of Licensing, "To All Pressurized Water Reactor Licensees." This Generic Letter (83-37) provided NRC Staff guidance on the content of the TS associated with certain items in NUREG-0737. On October 14, 1986 and July 21, 1987, NNECo filed responses to the Generic Letter for Millstone Unit 2. The following specific changes to the Millstone Unit 2 TS have been proposed:

● *High Point Vents (HPV) - TMI Item II.B.1.* The licensee has proposed a new TS 3/4.4.11 "Reactor Coolant System Vents" to incorporate LCOs and SR for the HPV.

● *Post-Accident Sampling System (PASS) -TMI Item II.B.1.* The licensee has proposed a new TS 6.17 "Pass/ Sampling and Analysis of Plan Effluents" to establish a program for PASS activities.

● *Auxiliary Feedwater System (AFWS) - TMI Item II.E.1.1.* The licensee has proposed a change to TS Table 4.3-2, "Engineered Safety Features Instrumentation Surveillance Requirements" to provide SR for the automatic initiation logic for the AFWS.

● *Noble Gas Effluent Monitors (NGEM) and Containment High Range Monitor (CHRM) - TMI Items II.F.1.1 and II.F.1.3.* The licensee proposes to incorporate TS for the NGEM and CHRM in TS Table 3.3-6, "Radiation Monitoring Instrumentation," and TS Table 4.3-3, "Radiation Monitoring Instrumentation Surveillance Requirements."

● *Containment Pressure Monitor, Containment Water Level Monitors, Core Exit Thermocouples Subcooling Margin Monitor, Reactor Coolant Inventory Tracking - TMI Items II.F.1.4, II.F.1.5 and II.F.2.* The licensee has proposed that LCOs and SRs for the above instrumentation be incorporated in TS Tables 3.3-11, "Accident Monitoring Instrumentation" and 4.3-7, "Accident Monitoring Instrumentation Surveillance Requirements."

● *Containment Hydrogen Monitor - TMI Item II.F.1.6.* The licensee has proposed a change to TS 3.4.6.4.1, "Combustible Gas Control - Hydrogen Monitors." The LCO would be expanded to address the inoperability of both Hydrogen Monitors (the existing TS only addresses the inoperability of a single Hydrogen Monitor.) The SR would add a requirement for monthly functional testing of the hydrogen monitoring channels.

● *Control Room Habitability - TMI Item II.D.3.4.* A revised LCO would be provided to address expanded operability of the control room emergency ventilation system in reactor Modes 1 through 6 (power operation through refueling.) The current LCO addresses operability in Modes 1 through 4 (power operation through hot shutdown.) The SR would lower the maximum allowable control room temperature from 120° F to 100° F.

● *Special Reports* - TS 6.9.2, "Special Reports" would be expanded to incorporate proposed special reports associated with Accident Monitoring Instrumentation (proposed TS 3.3.3.8), Radiation Monitoring Instrumentation (proposed TS 3.3.3.1) and Reactor Coolant System Vents (proposed TS 3.4.11).

In addition to the proposed changes to the TS associated with GL 83-37, the licensee has proposed to add LCOs and SR associated with the Main Steam Line Radiation Monitor to TS Tables 3.3-11 and 4.3-7, respectively.

On March 6, 1986, the NRC published guidance in the **Federal Register** (51 FR 7751) concerning examples of amendments that are not likely to involve a significant hazards consideration. One example of amendments not likely to involve significant hazards considerations is example (ii) which involves "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement." In each case associated with the GL 83-37 TS, and in the case of the TS for the main steam line radiation monitor, the proposed TS represent new requirements or more stringent limitations on existing requirements. Accordingly, the Commission proposes to determine that the proposed changes to the TS, associated with GL 83-37 and the main steam line radiation monitor, involve no significant hazard considerations.

The final change to the TS considered herein involves an existing entry in TS Table 3.3-11 which is described as "Safety Valve Position Indicator Acoustic Flow Monitor." The licensee has proposed deletion of the word "Flow" from the instrument description. The proposed change to the TS would provide consistency with the corresponding entry in TS Table 4.3-7 and does not otherwise change the requirements in the TS.

Another example in 51 FR 7751 of amendments that are not likely to involve a significant hazards consideration is example (i) which involves "A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." The proposed change to TS Table 3.3-11 provides consistency with TS Table 4.3-7 and, thus, is within example (i) noted above. Accordingly, the Commission proposes to determine that the proposed change to the TS involves no significant hazards considerations.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Project Director: John F. Stolz

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: March 28, 1986 as supplemented April 9, 1986, March 13 and June 22, 1987.

Description of amendment request: The proposed amendment is in response to NRC's July 2, 1984 Generic Letter 84-15 entitled, "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability." The changes are intended

to reduce the number of unnecessary diesel generator cold fast starts, thus making them more reliable. This amendment request was previously noticed on May 21, 1986 (51 FR 22243).

During the review of the amendment request, Omaha Public Power District (the licensee) has responded to staff requests for additional details for certain items; and, in addition, made some corrections to the original submittal. Also the licensee has updated the Technical Specification pages involved and made administrative corrections. The submittals made since the original notice and a description of the information contained follows:

1. April 9, 1986 - This submittal provides an administrative correction to the letter which referred to the changes as concerning "surveillance requirements for solid radioactive waste" instead of concerning "the emergency diesel generators."

2. March 13, 1987 - This submittal provides the following:

(a) Deletes the requirement to start the diesel engine in order to comply with the provisions of the Limiting Conditions for Operation for Containment Cooling System. Additionally, the Basis to Technical Specification 2.4 has been revised in order to provide consistency between specification and basis.

(b) Specification 3.7(1)c has been reworded in order to increase its clarity, and the current Specification 3.7(1)f has been designated 3.7(1)e with the frequency changed from annual to refueling. In addition, some specifications have been removed from one specification to another specification. This was done for consistency in that one specification mainly has to do with surveillance and the other with testing.

3. June 22, 1987 - This submittal was requested by the staff to incorporate all the changes that have been discussed with the licensee into one package. All the changes were addressed in the above two submittals.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed changes do not affect reactor operations or accident analyses and have no radiological consequences. Therefore, operation in accordance with the proposed amendment clearly involves no significant hazards consideration because the changes will not:

1. Involve a significant increase in the probability or consequences of an accident or malfunction of equipment previously evaluated in the Safety Analysis Report. These changes are intended to reduce degradation of the emergency diesel generators caused by cold fast starts. Thus, the probability of malfunction of equipment can be considered to have been lessened. Additionally, by conducting the annual overhaul during refueling outages, the possibility of an occurrence at power with one engine tagged out for maintenance is virtually eliminated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the same surveillances are performed and only the time period of the fast starts has changed.

3. Involve a significant reduction in a margin of safety. The changes are intended to provide a less severe method of testing of the diesel generators, thus decreasing the likelihood of degradation and wear. By restricting the overhaul to refueling outages, the periods of time with one diesel tagged out for maintenance concerns during normal operation will be limited to necessary maintenance, instead of preventive maintenance which can be accomplished during refueling shutdowns.

In addition, the staff has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples of amendments that are not likely to involve significant hazards considerations (51 FR 7751). This application is deemed to be similar to example (ii) in that it will achieve consistency throughout the Technical Specifications by placing all diesel generator surveillance requirements in one location. This amendment is also somewhat similar to example (iv) where the relief based upon "acceptable operation" is in part based on NRC reassessment of the testing requirements imposed upon diesel generators. Based upon conclusions drawn from Generic Letter 84-15, the proposed changes are in keeping with the concept of increasing safety by precluding unnecessary wear on the emergency diesel engines.

Accordingly, the Commission proposed to determine that the requested change to Fort Calhoun Technical Specifications involves no significant hazards considerations.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, NW., Washington, DC 20036

NRC Project Director: Jose A. Calvo

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: October 29, 1986 (LAR 86-11)

Brief description of amendments: The proposed amendments would change Table 3.6-1, "Containment Isolation Valves," in the Diablo Canyon Nuclear Power Plant combined Technical Specifications for Units 1 and 2 to decrease the required maximum valve closure time for containment ventilation isolation valves FCV-662, FCV-663 and FCV-664 from 10 to 5 seconds. PG&E letter DCL-86-233, dated August 8, 1986, submitted "Qualification of Isolation Capability of 12-Inch Containment Vacuum/Overpressure Relief Valves FCV-662, FCV-663 and FCV-664 After a Loss-of-Coolant Accident" to fulfill a commitment in Supplement 31 to the Diablo Canyon Nuclear Power Plant Safety Evaluation Report. The letter also committed to revise the Technical Specifications to require a maximum 5-second closure time for the subject valves.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed change will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the valve isolation time requirement is

being decreased from a maximum of 10 to a maximum of 5 seconds for containment ventilation isolation valves FCV-662, FCV-663, and FCV-664, which is a more conservative isolation time requirement.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change does not necessitate a physical alteration of the plant or changes in parameters governing normal plant operation.

(3) Involve a significant reduction in a margin of safety because the proposed change conservatively decreases the maximum required closure time for the subject containment ventilation isolation valves.

Accordingly, the licensee has determined that the proposed change to the Technical Specifications involves no significant hazards considerations.

The NRC staff has reviewed the proposed amendments and the licensee's determination and finds it acceptable. Therefore, the staff proposes to determine that the requested amendments involve no significant hazards considerations.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: December 24, 1986 (LAR 86-13)

Description of amendment request: The proposed amendments would revise the Diablo Canyon Nuclear Power Plant combined Technical Specifications for Units 1 and 2 to modify Tables 4.3-1, "Reactor Trip System Instrumentation Surveillance Requirements," to change two surveillance intervals not previously addressed in License Amendment Request LAR 85-04. The surveillance test interval in Table 4.3-1 for Functional Unit 20, Reactor Trip System Interlocks, Analog Channel Operational Test, would change from "SU(1)" (prior to each reactor startup) to "R" (at least once per 18 months) for each of the five interlocks. The surveillance test interval in Table 4.3-2 for three Tavg-Low-Low signals, Analog Channel Operational Test, would change from "M" (at least once per 31 days) to "Q" (at least once per 92 days).

The changes to Technical Specification Figures 4.3-1 and 4.3-2 are consistent with WCAP-10271 and the NRC staff's position on treatment of reactor trip system channels shared by the engineering safety features actuation system.

The change to Table 4.3-1 concerning the detector plateau curve is required since the intermediate range and power range neutron flux channels are ion chambers, and thus a detector plateau curve is not applicable.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed changes will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes relax an operating restriction that was imposed because acceptable operation was not yet demonstrated. Acceptable operation for the proposed change in surveillance intervals has been approved by the NRC in H.R. Denton's July 24, 1985 letter to the Westinghouse Owners Group, which approved WCAP 10271. In addition, the change regarding the detector plateau curve clarifies the Technical Specification to accurately reflect the design of the plant.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not necessitate physical alteration of the plant or changes in parameters governing normal plant operation.

(3) Involve a significant reduction in the margin of safety because the proposed change in reactor protection system unavailability is very small because of the proposed change in surveillance intervals. Also, the change regarding the detector plateau curve is to accurately reflect the design of the plant.

Accordingly, the licensee has determined that the proposed changes to the Technical Specifications involve no significant hazards consideration.

The NRC staff has reviewed the proposed amendments and the licensee's determination and finds it acceptable. Therefore, the staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: March 13, 1987 (LAR 87-03)

Description of amendment request: The proposed amendments would change the Diablo Canyon Nuclear Power Plant combined Technical Specifications for Units 1 and 2 to clarify the requirements of three Technical Specifications. The specific changes consist of the following:

(1) Technical Specification 4.7.5.1, "Control Room Ventilation System," would be revised to clarify the requirements for operating redundant equipment in each train of the control room ventilation system during surveillance testing. The revision would specify the number of hours the heaters must be operating on the control room ventilation system to meet the intent of the specification and address how the redundant equipment of each train of the ventilation system must be tested to meet the surveillance requirements.

(2) Technical Specification 3.3.1, Table 3.3-1, "Reactor Trip System Instrumentation," would be revised to modify Action Statement 2.c to clarify the applicable thermal power level and to delete "at least once every 12 hours" from the Action Statement because the time interval for the quadrant power tilt ratio (QPTR) surveillance is already specified in Technical Specification 4.2.4.2.

(3) Technical Specification 4.3.1.1, Table 4.3-1, "Reactor Trip System

Instrumentation Surveillance Requirements," would be revised to clarify that the plant heat balance surveillance requirement for the power range nuclear instruments is to be performed after 15 percent thermal power is exceeded, but before 30 percent thermal power is reached, or within 24 hours, whichever occurs first.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed changes will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes clarify surveillance test requirements for the control room ventilation system and the reactor trip system instrumentation, none of which affect the accident analyses contained in the FSAR Update.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not necessitate physical alteration of the plant or changes to operating procedures.

(3) Involve a significant reduction in the margin of safety because the proposed changes only clarify the requirements of the Technical Specifications.

Accordingly, the licensee has determined that the proposed changes to the Technical Specifications involve no significant hazards consideration.

The NRC staff has reviewed the proposed amendments and the licensee's determination and finds it acceptable. Therefore, the staff proposes to determine that the amendment requests do not involve a significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: March 13, 1987 (LAR 87-04)

Description of amendment request: The proposed amendments would revise the Diablo Canyon Nuclear Power Plant combined Technical Specifications for Units 1 and 2 to delete Technical Specification 3.3.3.6 Action Statement f., which states, "Action Statement e. applies to first fuel cycle only and Statement a. and b. shall become effective thereafter," and revise the other applicable action statements to allow continued power operation with the Reactor Vessel Level Indication System (RVLIS) inoperable. The proposed amendments would also revise the format of the action statements of Specification 3.3.3.6 and Table 3.3.10 to be consistent with Specifications 3.3.1 and 3.3.2 in order to provide greater clarity to the operating personnel to address human factors concerns that have been identified.

The licensee has proposed the RVLIS Technical Specification changes because RVLIS is supplemental instrumentation to the subcooling margin monitor and core exit thermocouples, used for evaluating the onset of an inadequate core cooling condition. As such, RVLIS is not included in or derived from the FSAR analyses and evaluation, and the licensee has determined that a shutdown requirement when RVLIS is not operable should not be included in the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed changes will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the RVLIS is not required for the mitigation of previously evaluated accidents and is not relied upon for reactor trip or initiation of any plant safety systems. Revising the format of Technical Specification 3.3.3.6 action statements to be consistent with the format of Specifications 3.3.1 and 3.3.2 to address human factors concerns that have been identified is a purely administrative change.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not necessitate a physical alteration of the plant or changes in parameters governing normal plant operation.

(3) Involve a significant reduction in the margin of safety because the RVLIS is not required in the mitigation of any previously evaluated accident and is not relied upon for reactor trip or initiation of any plant safety system. In addition, the format changes will provide greater clarity to operating personnel to address human factor concerns.

Accordingly, the licensee has determined that the proposed changes to the Technical Specifications involve no significant hazards considerations.

The NRC staff has reviewed the proposed amendment and the licensee's determination and finds it acceptable. Therefore, the staff proposes to determine that the amendment requests do not involve a significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: May 14, 1987 (Reference LAR 87-07)

Description of amendment request: The proposed amendment would revise the Diablo Canyon Power Plant (DCPP) Technical Specification Table 3.12-1, Radiological Environmental Monitoring

Program, to correct a typographical error and change the location of biological sampling to a location which would provide more meaningful data. The proposed revisions are:

(1) Correct a typographical error on Technical Specification Table 3.12-1, item 1, "Direct Radiation," to list the proper special interest station as 7G2 instead of 7C2.

(2) Change the control sampling location for Technical Specification Table 3.12-1, item 4.b, "Ingestion, Fish and Invertebrates," from sample location areas identified as Pacific Ocean South of Diablo Cove (POS) and Pacific Ocean North of Diablo Cove (PON) to sample location area identified as 7C2. POS is an area about one acre in size located 1/4 mile south of Diablo Cove. PON is an area about one acre in size located 1/4 mile north of Diablo Cove. 7C2 is an area similar in size located approximately 3 miles south of Diablo Cove.

The intent of the sampling required by Table 3.12-1, item 4.b, is to determine the effects of radioactive liquid effluent discharges on certain aquatic animal organisms in Diablo Cove. Presently, sample locations POS and PON are designated as sampling locations not influenced by plant discharge in Table 3.12-1, item 4.b. These sampling locations must not be influenced by radioactive liquid effluent discharges in order to obtain a meaningful analytical comparison. After reviewing the analytical data from samples taken within sample location areas at PON and POS since DCPP has been in operation, the licensee has determined that these locations may be in areas that could be minimally influenced by plant discharge. A new control sample location (7C2) was tested by the licensee during the third and fourth quarters of 1986, and the licensee states that it is an appropriate background location. Control sampling data is currently being collected from sample location areas 7C2, POS, and PON to ensure that the intent of Technical Specification 3.12.1 is being met.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission proposes to determine that this amendment request involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92 a proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed revision would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the control sample location change merely ensures that, based on analytical data from samples taken at PON and POS during the plant operational mode, more meaningful data can be collected and analyzed. Another change corrects a typographical error in the description of a sample station.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not necessitate physical alteration of the plant or changes in parameters governing normal plant operation.

(3) Involve a significant reduction in the margin of safety because the proposed technical specification revisions do not change the frequency or type of analysis for radioactive isotope concentrations.

Accordingly, the licensee has determined that the proposed changes to the technical specifications involve no significant hazards consideration.

The NRC Staff has reviewed the proposed amendment and the licensee's determination and finds it acceptable. Therefore, the Staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: California Polytechnical State University Library, Government Documents and Maps Department, San Luis Obispo, California, 93407.

Attorney for Licensee: Richard F. Locke, Esq., Pacific Gas and Electric Company, P. O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P. O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: February 20, 1987 and supplemented on June 2, 1987.

Description of amendment request: The proposed amendment to Technical Specification Section 3.1.6 and 3.8.10 is required to affect replacement of certain incontainment radiation monitors with monitors which the licensee believes are necessary to meet leak detection requirements. The change was initiated specifically to help operators detect small (1 GPM) Reactor Coolant System (RCS) leak rates by monitoring containment particulate activity. The proposed amendment would also revise the associated basis of the Technical Specification 3.1.6 to explain the capabilities and limitations of the system. The existing radiation monitors were designed to detect RCS leakage by monitoring both particulate and gaseous activity. These monitors became less effective due to higher containment background gaseous activity which resulted after regulations were changed to restrict the use of containment purge.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning application of standards considered not likely to involve a significant hazards consideration by providing certain examples (51 FR 7751). One example (vii) is a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The changes proposed by the licensee were initiated to help maintain the RCS leak detection capability after the use of containment purge was restricted by a regulatory change. The changes included in the licensee proposal are minor in nature and are clearly in keeping with regulations. Therefore, the staff proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813

NRC Project Director: George W. Knighton

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: February 27, 1987 (TS 82)

Description of amendment requests: Tennessee Valley Authority (TVA) proposes to modify the Sequoyah Nuclear Plant Units 1 and 2 Technical Specifications (TS) to revise the Reactor Coolant System specifications while in Mode 3 to require two reactor coolant loops to be in operation when the reactor trip system breakers are closed. The bases will also be revised to show

the time when two reactor coolant loops are required to provide the necessary heat removal capability.

Basis for proposed no significant hazards consideration determination: In its application dated February 27, 1987 to revise the Sequoyah TS, the licensee provided the following information on the TS change:

In June of 1984, the Westinghouse Safety Review Committee determined that a potential unreviewed safety question exists as the result of the identification of an inconsistency in the assumptions between the accident analysis in the Final Safety Analysis Report (FSAR) and the technical specifications. This issue concerns the number of operating reactor coolant pumps when the plant is between residual heat removal (RHR) operation and hot zero power (HZP). This stage of operation is known as Mode 3 in the Westinghouse Standard Technical Specifications.

The accident analyses in the FSAR which are performed at HZP conditions are intended to bound the colder conditions of Mode 3 between HZP and RHR operation. Of the accident analyses presented in the FSAR, three are performed at HZP; steamline rupture, RCCA ejection, and uncontrolled bank withdrawal from subcritical. However, the only accident requiring reanalysis due to the technical specification inconsistency is the bank withdrawal from subcritical event. The FSAR analysis of the bank withdrawal from subcritical event assumes that all reactor coolant pumps are operating when the plant is at HZP and not operating in a special test. The results of the Westinghouse reanalysis show that two reactor coolant pumps in operation are adequate to meet RCS design limits. Thus, the proposed change to the technical specifications will require two reactor coolant loops to be in operation during Mode 3.

Westinghouse has analyzed the bank withdrawal from subcritical event assuming two pumps in operation at HZP. This accident was analyzed using the current Westinghouse analytical methods to demonstrate that the departure from nucleate boiling ratio (DNBR) remains above the limit value, which is the acceptance criterion for Condition II events. Using the current methods, the uncontrolled RCCA bank withdrawal from subcritical accident is performed in three stages: first, an average core nuclear power transient calculation, then an average core heat flux calculation, and finally the DNBR calculation. The TWINKLE computer code is used to calculate the nuclear power transient, the FACTRAN code to calculate the heat flux, and the THINC code to calculate the DNBR. (These codes are already referenced in the FSAR.) These methods have been previously approved by NRC in the review of the accident analyses on individual plant dockets.

In general, the assumptions listed in FSAR section 15.2.1.2 for the RCCA bank withdrawal from subcritical accident apply to the reanalysis. Additional assumptions used in the reanalysis are:

1. A conservative value for the moderator temperature coefficient was used in the analysis to yield the maximum peak heat flux.

2. The most limiting axial and radial power shapes, associated with having the two highest combined worth sequential control banks in their high worth position, were assumed in the DNB analysis.

3. Two reactor coolant pumps were assumed to be in operation.

The results of the reanalysis show that the minimum DNBR remains above the limiting value at all times during the transient. Therefore, the reactor core and reactor coolant system pumps operating will not be adversely affected, and no cladding damage and no release of fission products to the RCS is predicted in the event of an RCCA withdrawal from subcritical accident with two reactor coolant pumps operating.

Sequoyah placed administrative controls in place on August 10, 1984 to require two reactor coolant loops to be in operation or one reactor coolant loop if the control rods are on the bottom and the control rod drive system is tagged to prevent rod withdrawal. This proposed change adds this requirement to the technical specifications.

The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92 the licensee has performed and provided the following analysis.

(1) Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No, the reactor coolant pumps (RCPs) play two different roles at hot zero power (HZP). During the startup role, all four RCPs are put in operation to provide additional heat generation desired for startup. In the cooldown role, the number of RCPs in operation varies according to present conditions. The proposed change will require at least two pumps to be running, which provides sufficient heat removal capability for removing core decay heat.

(2) Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No, this change corrects an inconsistency between the FSAR and the technical specifications. The current analysis for a bank withdrawal from subcritical event assumes all four RCPs are running. The results of the Westinghouse reanalysis for only two RCPs running show that the departure from nuclear boiling ratio (DNBR) remains above the limit value, which is the acceptance criterion for this event. Thus, no cladding damage and no release of fission products to the reactor coolant system is predicted as a result of DNB.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

No, of the three accidents analyzed at HZP, the bank withdrawal from subcritical is the only event that requires more than one RCP to be running. The change in the technical specifications from one pump required running to two pumps running will not have any significant impact on the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: April 8, 1987 (TS 87-03)

Description of amendment requests: Tennessee Valley Authority proposes to modify the Sequoyah Nuclear Plant Units 1 and 2 Technical Specifications (TS) by revising TS 3/4.6.2, Depressurization and Cooling Systems, Containment Spray System, for both

units to increase requirements on the Containment Spray System. The amendments would add operability requirements to the Limiting Condition for Operation (LCO) 3.6.2.1 for the residual heat removal (RHR) spray. The associated action statement and surveillance requirements (SR) would be revised accordingly to add requirements on the RHR spray trains. The existing SR would be expanded to clearly identify separate SR for both the RHR spray and containment spray trains. The applicability statement would be revised to exempt the operability requirements for the RHR spray trains in Mode 4. Additionally, two typographical changes would be made to the action statement and SR 4.6.2.1.C of the Unit 1 TS only.

Basis for proposed no significant hazards consideration determination: The containment spray system for each unit at Sequoyah includes four spray headers. Two of these headers belong to redundant trains of containment spray. Each containment spray train has a dedicated pump and heat exchanger, and each train is capable of delivering 4,750 gpm of spray. Containment spray is automatically initiated upon the hi-hi containment pressure signal. The other two headers belong to redundant trains of RHR spray. A total of 2,000 gpm of RHR spray can be provided by either train of the RHR system. RHR spray can only be initiated by manual valve manipulations. The proposed revision would make the containment spray system requirements consistent with the plant's Design Criteria and Final Safety Analysis Report (FSAR). While the necessary operability requirements do exist cumulatively in the current TS under LCOs 3.5.2 and 3.6.2.1, this change would enhance the TS by placing all of the containment spray system requirements in one LCO.

In Mode 4, the RHR system's primary function changes from emergency core cooling to shutdown decay heat removal. The proposed TS for the RHR system would not require RHR spray in Mode 4. The following is a summary of TVA's evaluation which justifies that use of RHR spray will not be necessary in Mode 4.

Assuming a cooldown rate of 50° F per hour, which is stipulated in the Sequoyah General Operating Instruction, "Plant Shutdown from Minimum Load to Cold Shutdown," it would take at least four hours to get from initial shutdown (assume average coolant temperature = 550° F) to Mode 4 (maximum average coolant temperature = 350° F). Per the Function Restoration Guideline, RHR spray is prohibited for at least an hour after the initiation of a LOCA. Based on the above, the earliest time for RHR spray initiation following a LOCA occurring in Mode 1 and Mode 4 is one hour and five hours after shutdown, respectively. A comparison of the decay heat rates given in the Sequoyah FSAR Table 6.2.1-8 for one hour and five hours after shutdown shows that the decay heat rate at five hours is approximately 61 percent of the decay heat rate at one hour. Similarly, the operation of one train of containment spray alone provides 70 percent of the flow rate of one train of containment spray supplemented by one train of RHR spray. Since the decrease in the decay heat rate is greater than the reduction in the containment spray system's capacity, TVA concluded that the spray provided by the RHR spray will not be necessary following a LOCA which is initiated in Mode 4. In addition, the amount of initial blowdown energy released in Mode 4 will be significantly less than a design basis event due to the significantly lower primary coolant temperature.

The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92 about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92 the licensee has performed and provided the following analysis.

(1) Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed amendment makes the Limiting Condition for Operation 3.6.2.1 regarding the containment spray system's requirements explicitly consistent with the Sequoyah Design Criteria and the FSAR design basis LOCA analysis. The Design Criteria and the FSAR state that one train of RHR spray is needed if a design basis LOCA has occurred and one train of containment spray is lost (Single failure criterion). While the operability of the RHR spray has been assured by existing surveillance requirements in the technical specifications, these requirements will now be appropriately listed or referenced in the containment spray system section.

(2) Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment does not change the plant's design, procedures, or testing. Therefore, it will not create any new accidents.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

No. The proposed amendment can only enhance safety since it will make the technical specifications clearer in regard to the design requirements for the containment spray system. The margin of safety regarding containment integrity as provided for by the containment spray system is not affected.

Additionally, the staff notes that the typographical changes are strictly administrative and therefore are encompassed by example (i) of the Commission's examples of amendments considered not likely to involve significant hazards considerations (51 FR 7751) and do not present a significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: April 17, 1987 (TS 87-09)

Description of amendment requests: Tennessee Valley Authority proposes to amend the Sequoyah Nuclear Plant Units 1 and 2 Technical Specifications (TS) to add the "Diesel Generator (D/G) System Electrical Board Rooms" to Limiting Condition for Operation 3.7.11.3 as part of the low-pressure CO_2 systems required to be operable to ensure system operation.

Basis for proposed no significant hazards consideration determination: The design criteria for the low-pressure CO_2 system at the Sequoyah Nuclear Plant (SQN) require automatic fire protection for the D/G electric board rooms. These board rooms are safety-related areas containing equipment that is required to be operable for D/G system operation. Inclusion of these areas with those areas currently having TS requirements for an automatic fire

detection system would make the TS consistent with the Sequoyah plant design criteria and the Final Safety Analysis Report (FSAR).

The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92 about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis.

SQN's fire protection system design is based on the results of a fire hazards analysis covering those areas where an unmitigated fire could affect a unit's ability to reach and maintan a safe shutdown. The analysis involved a detailed review of the plant design and an evaluation of the effects of postualted fires. The results of the analysis are provided in the SQN Fire Protection Program Reevaluation.

An automatic fire detection system is installed in various areas of the plant to give rapid notification of a fire to the main control room and to initiate automatic response where such a need exists. This capability is provided to the D/G electrical board rooms. In the event of a loss of offsite power, these boards are required to provide necessary power supply to miscellaneous equipment for D/G system operation. The addition of the electrical board rooms to the TS will ensure proper surveillance testing of the low-pressure CO_2 system to provide immediate notification and fire protection mitigation.

In its conclusion, the licensee addressed the issue of no significant hazards consideration as follows:

(1) Is the probability of an occurrence or the consequences of an accident previously evaluated in the safety analysis report significantly increased?

No, the fire hazards analysis presented in the FSAR has not been changed. Automatic CO_2 system fire protection is already provided for the D/G electric board rooms and no new modification is required by the proposed change. The additional TS requirement will provide the proper authority to ensure an operable D/G system is not degraded by a fire hazard.

(2) Is the possibility for an accident of a new or different type than evaluated previously in the safety analysis report created?

No, the capability for fire mitigation has not been changed. The proposed change will add the electric board rooms to the limiting conditions for operation for CO_2 systems and thus require the established surveillance testing. The possibility for a new or different type accident has not been created.

(3) Is the margin of safety significantly reduced?

No, the margin of safety has not been reduced because testing requirements and CO_2 system operation will remain the same.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involve no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: May 22, 1987 (TS 87-20)

Description of amendment requests: Tennessee Valley Authority (TVA) proposes to modify the Sequoyah Nuclear Plant Units 1 and 2 Technical Specifications to revise the following functions for reactor trip system and engineered safety feature (ESF) actuation system instrumentation: (1) Remove the channel calibration every refueling outage requirement for the reactor trip, P-4 function, from Table 4.3-1, "Reactor Trip System Instrumentation Surveillance Requirements," (2) Clarify the channels to trip for manual containment spray and manual phase "B" isolation in Table 3.3-3, "Engineered Safety Feature Actuation System Instrumentation" to state, "Two switches must be operated simultaneously for actuation," (3) Remove the reactor trip function from high-high steam generator water level signal, Table 3.3-5, "Engineered Safety Features Response Times," and (4) Add an automatic actuation logic requirement for turbine trip, and feedwater isolation, and automatic switchover to containment sump in Tables 3.3-3, 3.3-4 and 4.3-2, providing the total No. of channels, channels to trip, minimum channels operable, applicable modes, and action; extend the time allowed to perform surveillance testing from 1 hour to 2 hours for the Action Statements 15 and 23 in Table 3.3-3 which applies to one channel bypassed; and delete the note in Table 3.3-4. Additionally, for Unit 2 only, a redundant listing of an automatic switchover to containment sump would be deleted from TS Table 4.3-2. An associated footnote in Table 3.3-4, applicable to both units, concerning manual switchover of residual heat removal (RHR) suction from the refueling water storage tank (RWST) to the containment sump would also be deleted.

Basis for proposed no significant hazards consideration determination: The following describes in detail each proposed change:

1. TVA has stated the TS requirement to perform a channel calibration for the P-4 interlock is not practical. A channel calibration, as defined by the TS, shall be the adjustment, as necessary, of the channel output such that it responds with necessary range and accuracy to known values of the parameter which the channel monitors. The P-4 interlock performs its designated function when a 1 of 2 logic is present. The channel output is not dependent on any range or accuracy. As soon as the P-4 contact senses a signal, the channel output is performed. Operability of the channel output is verified by the channel functional test. Also, the proposed change to remove the channel calibration requirement is consistent with the Westinghouse Standard Technical Specifications (STS).

2. The manual actuation logic for containment spray and phase "B" isolation consists of four momentary controls. Actuation will occur only if two associated controls are operated simultaneously. Two controls per set are preferred to prevent inadvertent spray actuation.

The current TS numbers for manual actuation are not correct. The proposed change will correctly reflect the number of controls required for actuation.

3. The ESF system generates a turbine trip and feedwater isolation on high-high steam generator water level. This is to prevent water from entering the steam lines and the turbine. At operations above 50 percent of rated thermal power, once the turbine has been tripped, a reactor trip signal will be generated. Amendment 7 dated June 26, 1981 to the SQN unit 1 facility operating license allowed the deletion of a reactor trip on turbine trip for operation below 50 percent of rated thermal power. Since a reactor trip does not provide for protection of the turbine from water carryover into the turbine as a result of flooding of the steam lines, it should not be listed with the turbine trip in Table

3.3-5 as having a required ESF response time. Furthermore, the proposed change is consistent with the same response time requirements to a high-high steam generator water level event as given in the Westinghouse STS.

4. The automatic actuation logic test applies various simulated input combinations in conjunction with each possible interlock logic state and verifies the required logic output. This testing is already being performed at Sequoyah. The addition of this requirement to the TS will ensure proper controls are in place for complete operability verification and will be consistent with other functional units on the same table and the Westinghouse STS.

The applicable action statement for the automatic actuation logic test allows one channel to be bypassed for up to one hour in order to meet surveillance testing requirements. Because of current problems in meeting the one-hour time requirement, TVA is requesting that this time limit be extended to two hours, provided the other associated channel is operable. The Westinghouse STS presently allow two hours to perform this testing. Additionally, WCAP 10271, Supplement 2, "Evaluation of Surveillance Frequencies and Out of Service Times for the Engineered Safety Features Actuation System," has proposed extending this time limit to four hours based on results of fault tree reliability and risk analysis. TVA believes that adequate reliability exists for the extended two-hour testing time, provided the other associated channel is operable.

Table 4.3-2 of the unit 2 TS as it currently exists, has duplicate entries of item 9, "Automatic Switchover to Containment Sump." The duplication of the two entries was verified by an item-by-item comparison of the two entries. Therefore, the deletion of the redundant entry of item 9 in Table 4.3-2 as it appears on page 38 of the unit 2 TS will not alter the requirements for channel checks, channel calibrations, or channel functional tests; nor will it change the modes for which surveillance is required.

The associated footnote provided temporary relief to the requirements of item 9 of Table 4.3-2. The duration of the relief was to last for 30 days, extending from June 18, 1982, until July 18, 1982. The applicability of this footnote has long since expired, and its deletion will provide for keeping the TS free from obsolete statements.

The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92 the licensee has performed and provided the following analysis.

Is the probability of an occurrence or the consequences of an accident previously evaluated in the safety analysis report significantly increased?

(1) No. The P-4 interlock performs designated safety functions following a reactor trip. The capability to perform these functions is not dependent on any range or accuracy. Initiation of the safety functions will occur when a 1 of 2 logic is present. Deletion of the P-4 channel calibration will not prevent function capability nor decrease reliability.

(2) No. The added words for containment spray and phase "B" isolation more clearly define actuation requirements. Function capability has not been changed nor reliability decreased.

(3) No. A reactor trip is not expected to occur directly as a result of high-high steam generator water level. The high-high water level signal will generate a turbine trip which will immediately initiate a reactor trip. Removing the response time for a reactor trip from this function does not prevent timely action for a reactor trip, as other applicable response times for a reactor trip remain in effect.

(4) No. The addition of automatic actuation logic testing to the technical specifications is necessary to ensure intended functions assumed in the safety analysis report are reliable. This testing is consistent with other testing requirements in the same table. The extended testing time has been evaluated, and the analysis determined that reliable function operability still exists. The additional testing and increased testing time do not alter the manner in which protection is afforded. Deletion of the redundant surveillance requirement entry and the expired footnote is strictly administrative and does not alter any testing, action, or operating requirements of the plant.

Is the possibility for an accident of a new or different type than evaluated previously in the safety analysis report created?

(1) No. Deletion of the P-4 channel calibration removes an inappropriate test requirement. The channel functional testing will still be performed in a manner to ensure equipment reliability.

(2) No. The proposed change only affects the technical specifications by adding clarification to existing requirements. The mechanism to trip the channels is still the same. No modifications or procedural changes are necessary.

(3) No. The proposed deletion will not result in a change in which reactor trip protection is provided. The manner in which a turbine trip and subsequent reactor trip resulting from a high-high steam generator water level signal would occur has not been changed.

(4) No. The proposed changes will not require any modifications or alter any testing, action, or operating requirements of the plant. Existing testing techniques will be used to satisfy the additional requirements; and present testing, where times have been extended, will be performed the same way. The two items being deleted affect only the technical specifications and are strictly administrative.

Is the margin of safety significantly reduced?

(1) No. The margin of safety has not been changed. Function operability and reliability have not been affected.

(2) No. The margin of safety has not been changed. Clarification has been added to the technical specifications to avoid any confusion in necessary action required for channel trip.

(3) No. The margin of safety has not been changed. The proposed change makes a correction to an inappropriate response time requirement.

(4) The administrative changes will not affect the margin of safety. The additional testing requirements will provide additional assurance of equipment operability. The extended testing time is based on fault tree reliability and risk analysis and will not significantly reduce the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: May 22, 1987 (TS 87-18)

Description of amendment requests: Tennessee Valley Authority proposes to modify the Sequoyah Nuclear Plant Units 1 and 2 Technical Specifications to revise the (a) trip setpoint and (b) allowable values for each bus for the reactor coolant pump (RCP) undervoltage (UV) reactor protection channel (Table 2.2-1, functional unit 15) from greater than or equal to 4830 volts and 4761 volts, respectively, to greater than or equal to 5,022 volts and 4,739 volts, respectively.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92 about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis.

The RCP UV instrument loop consists of a 7200/120 volt potential transformer and an UV relay which provide input to the reactor protection system. The nominal electrical board voltage for the RCPs is 6900 volts. The calculation of the instrument loop accuracy and the resulting safety margin are described in Sequoyah calculation RCP-UV-DEVICE 27. The UV relay setting is based on the Westinghouse safety limit of 68 percent of nominal board voltage for the RCPs, the relay guaranteed actuation value, and the overall channel accuracy.

The instrument loop channel accuracy calculation was performed using the secondary side voltage of the potential transformer. The technical specification values are based on the primary side voltage. Table 1 provides a listing of key primary and secondary side voltages. The nominal UV relay setting is 90 volts, which corresponds to 5400 volts on the primary side. The trip setpoint is considered to be 93 percent of this value or 5,022 volts. This value is based on the manufacturers' guaranteed actuation at 93 percent of the relay setting, as noted in the attached calculation. Actuation of the relay at a higher value is indeterminate; hence, the nominal setting cannot be considered the trip setpoint as used in the technical specifications because actuation is not guaranteed at that value.

The allowable value was calculated using essentially the same setpoint methodology as that used for V. C. Summer, which was reviewed and approved by NRC in NUREG-0717, Supplement 4. The total allowance (TA), defined as the difference between the trip setpoint and safety limit in percent span, is calculated using the trip setpoint and the safety limit.

$$TA = \frac{83.7 - 78.2 \times 100}{30} = 18.33\% \text{ of span}$$

The difference between the trip setting and allowable value setting is determined by the smaller of the following two values. In effect, this method provides a conservative allowance for rack effects. The allowable value is used as a trigger value during periodic rack testing. This trigger value ensures that sufficient allowance remains for the rest of the channel to guarantee actuation at the safety limit. T_1 is an arithmetic sum of the rack error components. T_2 is the total allowance minus the statistical computation of the channel error excluding the rack components. Using the smaller of the two values ensures calculations of a conservative trigger value.

The individual values used in these equations are defined in the attached calculation.

$T_1 = (RD + RCA + RMTE + RCSA) = 18.3\%$ of span

$T_2 = TA-[(A + S^2)1/2 + EA]$

where:

$A = PMA^2 + PEA^2 + SPE^2 + STE^2 + RTE^2$

$S = (SCA + SMTE + SD)$

$T_2 = 16.9\%$ of span

T^2 is used to calculate the technical specification allowable value. The UV relay setting corresponding to the allowable value is calculated as follows.

Equivalent Allowable Value Setting = 90 - (.169)(30)

= 84.93 V

To be consistent with technical specification usage, the guaranteed actuation value of 93 percent is used. The allowable value is 78.98 V, or 4,739 V on the primary side.

In summary, the trip setpoint for the RCP UV reactor protection channel has been calculated to be 5,022 V. The corresponding allowable value has been calculated to be 4,739 V.

In its conclusion, the licensee addressed the issues of no significant hazards consideration. It addressed the three factors in 10 CFR 50.92 as follows:

(1) Is the probability of an occurrence or the consequences of an accident previously evaluated in the safety analysis report significantly increased?

No. The change in the trip setpoint and allowable value for the reactor coolant pump undervoltage reactor protection channel to account for overall channel accuracy and measurement and test errors ensures proper operation of this protection function. The change in setpoint decreases the consequences of accidents or transients for which this channel provides protection. The change in setpoint has no effect on the probability of such transients or accidents occurring.

(2) Is the possibility for an accident of a new or different type than evaluated previously in the safety analysis report created?

No. The change in the trip setpoint and allowable values for the reactor coolant pump undervoltage reactor protection channel ensures that the technical specification trip setpoint is conservative with respect to the safety limit. No hardware changes were made. No new or different types of accidents have been introduced by this change in setpoint.

(3) Is the margin of safety significantly reduced?

No. The change in the trip setpoint and allowable values for the reactor coolant pump undervoltage reactor protection channels is conservative. The effects of measurement and test errors have been included in the overall channel accuracy. The increase in the trip setpoint increases the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: John A. Zwolinski

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri.

Date of amendment request: March 31, 1987 as supplemented by letters dated April 15, June 5, June 18, July 16, and July 28, 1987. The March 31 application was originally noticed on June 3, 1987 (52 FR 20804).

Description of amendment request: The proposed amendment involves a core reload and would permit operation with Westinghouse Vantage 5 (V-5) fuel assemblies in addition to the Westinghouse Low Parasitic (LOPAR) and Optimized Fuel Assemblies (OFA's) remaining in the core during Cycle 3. Design features of the V-5 fuel include assemblies with up to approximately 4.2 weight percent U-235, integral fuel burnable absorbers, intermediate flow mixers, reconstitutable top nozzles and extended burnup capability. This requires changes to the technical specifications (TS) due to the use of the V5 fuel and use of the following analytical methods: the WRB-2 departure from nucleate boiling (DNB) correlation, the BASH large break loss-of-coolant accident (LOCA) model, the FQ(z) peaking factor, the ANSI/ANS-5.1-1979 decay heat model, and an updated methodology for the calculation of radiological consequences for Chapter 15.0 accidents and transients. Changes to the TS would be made to: reactor core safety limits; overtemperature delta T, overpower delta T and reactor coolant flow allowable values; bases to reflect the WRB-2 DNB correlation; rod drop times; axial flux difference limiting condition for operation (LCO) and Action statements; peaking factor surveillances; DNB parameters; and the volume range for reactor coolant system (RCS) accumulators.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7751) of actions not likely to involve a significant hazards consideration. Example (iii) of this guidance states: "For a nuclear power reactor, a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical specifications, that the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable."

The proposed license amendment is directly related to the above example in that the core reload uses V5 fuel which is not significantly different from previous cores at Callaway, the changes to the technical specifications are as a result of the core reload and not because of any significant change made to the acceptance criteria for technical specifications, and the analytical methods used by the licensee in the required reload analyses have been previously found acceptable by the NRC. Therefore, based on the above, the staff proposes to determine that the proposed technical specification changes do not involve a significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David L. Wigginton, Acting.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: June 24, 1987

Description of amendment request: Changes in the Technical Specifications are requested for Cycle 13 operation of the nuclear reactor. The changes are required to allow use of the General Electric fuel type BP8DRB299. The proposed Technical Specification changes are: (1) incorporation of additional Maximum Average Planar Linear Heat Generation Limits (MAPLHGR) for the new fuel; (2) revision to the Minimum Critical Power Ratio (MCPR) limits by eliminating the fuel type dependence; and (3) updating the bases section references associated with certain cycle dependent limits.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for determining whether a proposed amendment involves a significant hazards consideration (48 FR 14870). An example of an amendment that is not likely to involve a significant hazards consideration is "(iii)..., a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the Technical Specifications, that the analytical methods used to demonstrate conformance with the Technical Specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable."

The staff considers the proposed amendment to be similar to example (iii) since the staff has previously reviewed the fuel design proposed for cycle 13 operation and has found that the operating characteristics and safety margins are acceptable. No changes in the previously accepted analytical methods used to demonstrate conformance with the Technical Specifications and regulations are involved. Therefore, no significant difference in safety to the public is expected.

Since the amendment involves proposed changes for which no significant hazards consideration exists, the staff has made a proposed determination that this application for amendment involves no significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Attorney for licensee: John A. Ritscher, Esq., Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: Victor Nerses, Acting Director

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: October 7, 1986, as supplemented June 8, 1987

Description of amendment requests: The proposed amendments would change Section 3.12 of the Surry Technical Specifications (TS) by revising the actions to be taken by Virginia Electric and Power Company (the licensee) while operating with an inoperable, misaligned or dropped control rod. The current TS require implementation of an alternate set of control bank insertion limits if operation is continued with an inoperable or bottomed rod. The licensee has proposed to eliminate the alternate rod insertion limits requirement, and proposed alternate actions to be taken by licensee upon discovery of an inoperable rod. The proposed actions include the requirement for the timely evaluation of peaking factors, shutdown margin and the potential impact of operation with the inoperable rod on the various accident analyses presented in the Updated Final Safety Analysis Report (UFSAR). The proposed actions to be taken by licensee are in closer agreement with the actions delineated in

Standard Technical Specifications for Westinghouse plants.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in margin of safety.

The licensee has evaluated the changes against the standards provided above and has determined that the changes would involve no significant hazards consideration because:

(1) The changes involve a revision to certain operational constraints. The accident probabilities will not significantly change because no equipment modifications or design changes are involved. The consequences of the accidents affected by an inoperable rod will continue to be bounded by their associated analyses by virtue of the requirement to maintain the power peaking factors, shutdown margin and other significant safety parameters within appropriate design limits. Thus, the probabilities or consequences of an accident previously evaluated will not significantly increase.

(2) The proposed changes involve the actions to be taken by the licensee while operating with an inoperable rod. These actions do not involve any new equipment malfunctions or design changes. The kind of accidents affected by plant operation with an inoperable rod remain the same and have been previously analyzed. Therefore, the proposed changes will not create a possibility of a new or different kind of accident.

(3) The proposed revisions include the requirement for timely evaluation of peaking factors, shutdown margin and the potential impact of operation with the inoperable rod on the various accident analyses presented in the Updated Final Safety Analysis Report. The revised TS include additional surveillance requirements which provide greater assurance that all of the acceptance criteria for the transient analyses presented in UFSAR are met and the appropriate safety margins are maintained. Thus the proposed changes do not involve a significant reduction in the margin of safety.

Therefore, the staff agrees with the licensee's analysis of the three standards and proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Lester S. Rubenstein

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of application for amendment: January 17, 1986 as supplemented on June 24, 1986 and January 15, 1987.

Brief description of amendment: The amendment approves a change to the Reactor Coolant System pressure setpoint for initiation of High Pressure Injection and Low Pressure Injection. The setpoint is changed from 1500 psig to 1526 psig.

Date of issuance: July 24, 1987.

Effective date: July 24, 1987.

Amendment No.: 108

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 27, 1986 (51 FR 30562). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 24, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Carolina Power & Light Company, North Carolina Eastern Municipal Power Agency, Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit No. 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: May 14, 1987

Brief description of amendment: The amendment modifies Technical Specifications Tables 3.3-11, 4.3-8, and 4.11-1 to allow continuous as well as batch release of secondary system liquid effluents

Date of issuance: July 22, 1987

Effective date: July 22, 1987

Amendment No.: 1

Facility Operating License No. NPF-63: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 3, 1987 (52 FR 20797). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 22, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Richard B. Harrison Library, 1313 New Bern Avenue, Raleigh, North Carolina 27610

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: March 9, 1987

Brief description of amendment: This amendment revises the Fermi-2 Technical Specifications to make editorial and typographical error corrections to Specification 3/4.8.4.3 (MOV Thermal Overload Protection), Specification 3/4.5.1 (ECCS-Operating), and Specification 3/4.6.1.2 (the Bases for Primary Containment Leakage). The change to Specification 3/4.8.4.3 deletes reference in Table 3.8.4.3-1 of Item 12, Valve No. P11-F616, which is no longer applicable for the Condensate Storage and Transfer System design; the change to Specification 3/4.5.1 resequences ECCS-Operating Actions b.2 and b.3 under 3.5.1 by replacing Action b.2 with Action b.3 and by replacing Action b.3 with Action b.2; the change to Bases 3/4.6.1.2 corrects two typographical errors that reference an American National Standard document N45.4-1972, "Leakage-Rate Testing of Containment Structures for Nuclear Reactors." (This document was incorrectly referenced as "N45.5-1972.")

Date of Issuance: July 17, 1987.

Effective Date: July 17, 1987.

Amendment No.: 8

Facility Operating License No. NPF-43: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** April 8, 1987 (52 FR 11359). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 17, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: March 9, 1987 (VP-NO-87-0005)

Brief description of amendment: This amendment revises Fermi-2 Technical Specification 3/4.2.2 to change the average power range monitor (APRM) setpoint action statement extending the action time limit for control rod withdrawal from two to six hours before setdown action is required in order to: (1) establish target patterns; (2) achieve a reasonable power distribution at full power with equilibrium xenon; and (3) ensure that no combination of the Maximum Fraction of Limiting Power Density and Fraction of Rated Thermal Power would result in a Linear Heat Generation Ratio transient peaking factor beyond the one percent plastic strain limit. This amendment also changes the control rod block instrumentation, Table 3.3.6-2 of the Technical Specifications, to delete the asterisks in the "Trip Setpoint" and "Allowable Value" columns for Item 1.a to correct a typographical error (the asterisk does not apply to Item 1.a), and to add "APRM" to the same footnote to clarify the intent of the specification.

Date of Issuance: July 21, 1987

Effective date: July 21, 1987

Amendment No.: 9

Facility Operating License No. NPF-43: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** April 8, 1987 (52 FR 11358). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 21, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Public Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: February 11, 1987

Brief description of amendment request: The amendment changed the Technical Specifications to revise the reactor coolant system heatup and cooldown curves (Figures 3.4-2 and 3.4-3), and their associated bases.

Date of issuance: July 28, 1987

Effective date: July 28, 1987

Amendment No.: 111

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 8, 1987 (52 FR 11363). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 28, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application of amendments: April 1, 1987 (L-87-146 for Unit 1 and L-87-147 for Unit 2).

Brief description of amendments: The amendments delete the tables which identify safety-related hydraulic and mechanical snubbers and the first in service inspection requirement which has already been fulfilled. The amendment for Unit No. 1 also deletes a footnote concerning the waiving of mechanical snubber test requirements until startup following the fifth refueling outage, which has already occurred, and corrects a reference.

Date of Issuance: July 27, 1987

Effective Date: July 27, 1987

Amendment Nos.: 83 and 22

Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 20, 1987 (52 FR 18979) for Unit 1, and June 3, 1987 (52 FR 20799) for Unit 2. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 27, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida 33450.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: July 18, 1986, as supplemented on February 20, 1987.

Brief description of amendments: These amendments incorporate plant specific Technical Specifications for the Reactor Vessel Level Monitoring System (RVLMS). The RVLMS has been installed and tested on Turkey Point Units 3 and 4, and is a portion of the Inadequate Core Cooling System (ICCS). The NRC staff reviewed and approved the ICCS for Turkey Point Units 3 and 4. The details and basis for the approval are documented in the staff's Safety Evaluation dated January 28, 1985. The RVLMS portion of the ICCS was approved for implementation prior to the licensee requesting Technical Specifications for the RVLMS. The Technical Specifications are in accordance with the NUREG-0737, Item II.F.2, and the staff's Safety Evaluation referenced above.

Date of issuance: July 28, 1987

Effective date: July 28, 1987

Amendment Nos.: 125 and 119

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 24, 1986 (51 FR

33949). Renoticed May 6, 1987 (52 FR 16946). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 28, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of application for amendment: March 10, 1987 as supplemented June 9, June 30, July 8, 23, and 27, 1987.

Brief description of amendment: This amendment authorizes one-time extensions to the surveillance intervals for drywell bypass leakage testing and leakage testing of 52 isolation valves and two air systems of the drywell airlock/equipment hatch until the first refueling outage scheduled to begin September 15, 1987.

Date of issuance: August 3, 1987.

Effective date: August 3, 1987.

Amendment No.: 7

Facility Operating License No. NPF-47. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 1, 1987 (52 FR 24550). The licensee's June 30, 1987 submittal withdrew the Technical Specification change request specified in Attachments 1 and 3 to the March 10, 1987 submittal. The July 8, 1987 submittal provided clarification with respect to the surveillance extension for each individual valve. The July 23, 1987 submittal added a double asterisk to TS 4.6.1.3.f which had been inadvertently omitted. The July 27, 1987 submittal provided clarification to the footnotes on the TS pages that the first refueling outage is scheduled to begin on September 15, 1987. These submittals did not alter the NRC staff's determination of no significant hazards as published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 31, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: January 13, 1987

Brief description of amendment: The amendment revised the Technical Specifications by adding operability and surveillance requirements for the Broad Range Toxic Gas Detection System.

Date of issuance: July 21, 1987.

Effective date: July 21, 1987.

Amendment No.: 20

Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5858). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 21, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: February 23, 1987.

Brief description of amendment: The amendment revised the Technical Specifications by revising the channel calibration frequency for the Chlorine Detection System from at least once every 18 months to at least once every 31 days.

Date of issuance: July 31, 1987.

Effective date: July 31, 1987.

Amendment No.: 21

Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1987 (52 FR 9577). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 31, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Northeast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: February 13, 1987

Brief description of amendment: This amendment will lower the reactor water cleanup system isolation set point from the existing Group 3 Isolation Signal (reactor low water level) to the Group 5 Isolation Signal (reactor low-low water level).

Date of issuance: July 17, 1987.

Effective date: July 17, 1987.

Amendment No.: 4

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 22, 1987 (52 FR 13340). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 17, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: December 24, 1985, as supplemented February 3, 1987

Brief description of amendments: The amendments revise the requirements for diesel generator surveillance testing.

Date of Issuance: July 24, 1987

Effective date: July 24, 1987

Amendment Nos: 15 and 14

Facility Operating Licenses Nos. DPR-80 and PDR-82: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 9, 1986 (51 FR 12232). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 24, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: February 13, 1986

Brief description of amendments: These amendments provide for operability and surveillance tests for certain check valves in the residual heat removal and safety injection systems to ensure adequate pressure isolation between the reactor coolant system and these lower pressure support systems.

Date of Issuance: July 27, 1987

Effective date: July 27, 1987

Amendment Nos: 16 and 15

Facility Operating Licenses Nos. DPR-80 and DPR-82: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 9, 1986 (51 FR 12234). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 27, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: September 10, 1985, as supplemented April 3, 1987

Brief description of amendment: The amendment revises Technical Specification Section 3/4.8.2, Onsite Power Distribution Systems, and its corresponding bases, consistent with the Westinghouse Standard Technical Specifications and editorial corrections.

Date of issuance: July 30, 1987

Effective date: July 30, 1987

Amendment No.: 132

Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 4, 1985 (50 FR 49788). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Multnomah County Library, 801 S. W. 10th Avenue, Portland, Oregon 97205.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: December 12, 1986, as supplemented April 9, 1987.

Brief description of amendment: The amendment clarified the Service Water System and Reactor Building Cooling Unit response times.

Date of issuance: July 22, 1987

Effective date: July 22, 1987

Amendment No.: 67

Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** January 14, 1987 (52 FR 1557). The April 9, 1987 letter provided clarifying information that did not change the initial determination of no significant hazards consideration as published in the **Federal Register.** The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 22, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: February 9, 1987 (TS 226)

Brief description of amendments: The amendments change the Technical Specifications to delete one of the alternative actions specified in Table 3.1.A when the Average Power Range Monitor (APRM) High Flux or Inoperative trip channels are inoperable. It also makes minor clarifications and improvements.

Date of issuance: July 17, 1987.

Effective date: July 17, 1987, and shall be implemented within 90 days.

Amendments Nos.: 134, 130, 105.

Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 20, 1987 (52 FR 18988). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 17, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: January 29 and March 27, 1987.

Brief description of amendment: The amendment revised Technical Specification 3/4.7.5 regarding the ultimate heat sink to provide clarification and delineate the fact that there are two separate trains of cooling available for the essential service water system.

Date of issuance: July 21, 1987

Effective date: July 21, 1987

Amendment No.: 25

Facility Operating License No. NPF-30: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5870). The supplemental March 27, 1987 letter, regarding the inoperability of the ultimate heat sink due to level or temperature, is considered a minor change since this revision makes the 3/4.7.5 specification consistent with the existing and more restrictive specification regarding the essential service water system. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 21, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: March 27, 1987.

Brief description of amendment: The amendment clarifies Item 6.g of Technical Specification Table 3.3-3 regarding the blocking, during normal plant shutdowns and startups, of auxiliary feedwater start signals which are automatically generated upon the trip of both main feedwater pumps.

Date of issuance: July 29, 1987

Effective date: July 29, 1987

Amendment No.: 26

Facility Operating License No. NPF-30: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 22, 1987 (52 FR 13351). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 29, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the

amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By September 11, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last

ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (**Project Director**): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-424, Vogtle Electric Generating Plant, Unit 1, Burke County, Georgia

Date of application for amendment: July 22, 1987

Brief description of amendment: The amendment modifies the Technical Specifications to delete references to phase "A" containment isolation on a containment area high-range radiation signal from specification 3/4.3.2 and also to correct references which are no longer applicable because of that deletion.

Date of Issuance: July 24, 1987.

Effective Date: July 23, 1987

Amendment No.: 2

Facility Operating License No. NPF-68: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation is contained in a Safety Evaluation dated July 24, 1987.

Local Public Document Room location: Burke County Library, 4th Street, Waynesboro, Georgia 30830.

NRC Project Director: B. J. Youngblood

Dated at Bethesda, Maryland this 6th day of August, 1987.

For the Nuclear Regulatory Commission

Dennis M. Crutchfield,

Director Division of Reactor Projects– III, IV, V and Special Projects

Office of Nuclear Reactor Regulation

[FR Doc. 87–18219 Filed 8–11–87; 8:45 am]

BILLING CODE 7590-01-D

[Docket Nos. 50–250 and 50–251]

Environmental Assessment and Finding of No Significant Impact; Florida Power and Light Co.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from the requirements of Appendix R to 10 CFR Part 50 to Florida Power and Light Company (the licensee), for the Turkey Point Plant, Units No. 3 and 4, located in Dade County, Florida.

Environmental Assessment

Identification of Proposed Action

The proposed exemptions would permit alternatives to the technical requirements of Appendix R concerning certain specifically identified fire areas in the Turkey Point Plant, Units 3 and 4. These proposed exemptions are responsive to the licensee's request dated April 25, 1986, as supplemented on February 11, 1987.

The Need for the Proposed Action

The proposed exemptions are needed because the plant-specific features described in the licensee's request regarding the existing fire protection at the plant for these specific areas are the most practical means for meeting the intent of Appendix R and literal compliance would not significantly enhance the fire protection capability and would result in high radiation exposure to workers.

Environmental Impacts of the Proposed Action

The proposed exemptions, based on the existing physical plant design and fire protection features, will provide a degree of fire protection that is equivalent to that required by Appendix R for the affected areas of the plant such that there is no increase in the risk of fires at this facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined, nor do the proposed exemptions otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with these proposed exemptions.

With regard to potential non-radiological impacts, the proposed exemptions involve features located entirely within the restricted area as defined in 10 CFR Part 20. They do not affect non-radiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemptions.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemptions, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the exemptions would be to require rigid compliance with the applicable portions of Section III.G.2 of the Appendix R requirements. Such action would not enhance the protection of the environment would result in high radiation exposure to workers, as well as unjustified costs for the licensee.

Alternative Use of Resources:

This action involves no use of resources not previously considered in the Final Environmental Statement (operating licenses) for the Turkey Point Plant, Unit Nos. 3 and 4, dated July 1972.

Agencies and Persons Consulted:

The NRC Staff reviewed the licensee's request and did not consult with any other agency or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. The Commission has, therefore, determined not to prepare an environmental impact statement for the proposed exemptions.

For further details with respect to this action, see the application for exemption dated April 25, 1986, as supplemented on February 11, 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland this 6th day of August, 1987.

For The Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, Project Directorate II–2, Division of Reactor Project–I/II.

[FR Doc. 87–18362 Filed 8–11–87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Relocation of Local Public Document Room; Portland General Electric Co.; Trojan Nuclear Plant

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has relocated the local public document room (LPDR) for Portland General Electric Company's Trojan Nuclear Plant from the Library Association of Portland, Multnomah County Library, Portland, to the Branford Price Millar Library, Portland State University, Portland, Oregon.

Members of the public many now inspect and copy documents and correspondence related to the licensing and operation of the Trojan Nuclear Plant at the Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207. The Library is open on the following schedule: Monday through Thursday 8 a.m. to 10 p.m. Summer hours vary.

For further information, interested parties in the Portland area may contact the LPDR directly through Mr. Robert Lockerby, telephone number 503–464–4735. Parties outside the service area of the LPDR may address their request for records to the NRC's Public Document Room, 1717 H Street, NW., Washington, DC 20555, telephone number 202–634–3273

Questions concerning the NRC's local public document room program or the availability of documents at the Trojan LPDR should be addressed to Ms. Jona L. Souder, Chief, Local Public Document Room, Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number 800–638–8081 toll-free.

Dated at Bethesda, Maryland, this 6th day of August, 1987.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Rules and Records, Office of Administration and Resources Management.

[FR Doc. 87–18363 Filed 8–11–87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-269]

Confirmatory Order Modifying License (Effective Immediately); Duke Power Co. (Oconee Nuclear Station, Unit 1)

I

Duke Power Company (DPC or the licensee) is the holder of Facility Operating License No. DPR–38, which authorizes the operation of Oconee Nuclear Station, Unit 1 (the facility) at power levels not to exceed 2568 megawatts thermal for each unit. The facility consists of a pressurized water reactor plant located at the licensee's site in Oconee County, South Carolina.

II

For Oconee Unit 1, the reactor building cooling units (RBCUs) provide decay heat removal after the design-basis accident, which is the loss-of-coolant accident (LOCA). In a post-accident situation, all these coolers operate continuously circulating the steam-air mixture past the cooling tubes of the RBCU to transfer heat from the containment atmosphere to the low-pressure service water (LPSW) system. Also, the low-pressure injuection (LPI) system (in the recirculation mode) cools the water from the reactor building sump. For long-term cooling, the LPI pumps recirculate injected water from the reactor building sump to the core. Heat is transferred through the LPI coolers to the LPSW system.

By telephone on April 3, 1987, and by letter dated April 6, 1987, the licensee informed the NRC staff that recent fouling in the LPSW system (lake water) side of the RBCUs and LPI coolers had resulted in an inability to transfer the total LOCA heat loads. Consequently, the licensee had reduced power level in Unit 1 to a maximum of 91.5% to match LOCA heat transfer requirements with the capability of the degraded heat exchangers.

In its letter of April 6, 1987, the licensee commited (1) to establish new interim maximum allowable power levels, (2) to change the reactor protection system (RPS) high-flux trip setpoints for Unit 1, and (3) to specify that the third non-engineered safeguards LPI pump for Unit 1 must be operable.

On April 10, 1987, the NRC issued an immediately effective Order confirming the licensee's commitments and establishing new interim maximum allowable power levels and corresponding changes to the RPS high-flux trip setpoint for Unit 1 while the LPI system coolers and the RBCUs are in a degraded mode.

By letters dated July 24, 28, 29, and 31, 1987, the licensee informed the NRC of the effects for Unit 1 of elevated water temperatures of Lake Keowee. In the letter dated July 24, 1987, the licensee stated that the lake water temperature is increasing and is expected to exceed the design-basis water temperature (75°F) used in the accident analysis documented in the Final Safety Analysis Report (FSAR) for the plant. The licensee stated that the lake temperature has exceeded 75°F in 9 of the past 11 years.

To determine the impact of higher lake water temperatures on station systems and components, the licensee evaluated the effects of temperatures of 80°F and 85°F. The results of the evaluation indicated that under elevated lake water temperature conditions, there is a need to reduce the maximum allowable power level below that specified by the Order of April 10, 1987. The licensee has committed to reduce power level until the Unit 1 heat exchangers have been fully cleaned and tested. That commitment is confirmed by this order which will be in place until the unit shuts down for refueling at the end of Cycle 10, which is currently scheduled for September 2, 1987. In accordance with the April 10, 1987 Order, the RBCUs and the LPI coolers will be cleaned, tested, evaluated for full-power operation, and approved for full-power operation by the Region II Regional Administrator before they are returned to service following the refueling outage at the end of Cycle 10. That evaluation will consider the impact elevated lake water temperature has on the equipment. In addition, the RPS high flux trip setpoint will be reduced to correspond to the appropriate maximum allowable power level to ensure that the power level will be maintained below the allowed maximum power level.

III

In the July 24 and 29, 1987 letters, the licensee stated that the calculational methods used in determining the heat exchanger performance at the higher lake temperatures were the same as those used and documented in the April 6, 1987 submittal on heat exchanger fouling. The staff had reviewed these methods and found them acceptable before issuing the Confirmatory Order dated April 10, 1987. Using this same calculational technique, the licensee has determined that for Unit 1, power level reductions to 89.6% and 85.3% are appropriate when the lake water temperature exceeds 75° F and 80°F, respectively. These restrictions apply only until the end of Cycle 10 for Unit 1, when the heat exchangers will be cleaned and tested.

The licensee provided a conservative calculation that compared the LOCA heat removal requirements with the current degraded heat exchanger capacity to ensure (1) that the post-LOCA equipment qualification temperature limits will not be exceeded and (2) that required decay heat removal requirements can be satisfied. This calculation indicated that a scram from the power levels set out above will produce decay heat levels within the heat exchanger capabilities. Actual heat transfer and flow rates through the

degraded heat exchangers have been confirmed by testing. The licensee has committed to reduce the RPS high-flux trip setpoint to 91.5% of rated power for lake water temperatures up to 75 °F, to 89.6% for temperatures between 75 °F and 80 °F, and to 85.3% for temperatures between 80 °F and 85 °F. The setpoint reductions will ensure that these power levels are not exceeded until the heat exchanger fouling is corrected. If lake temperatures exceed 85 °F, Unit 1 will be shutdown.

The staff has reviewed the licensee's heat transfer calculational method and assumptions and has reviewed the overpower trip setpoints. On the basis of these reviews, the staff concurs that, with these setpoints, adequate accident heat removal capacity will be maintained with the current degraded heat exchangers and the projected elevated lake water temperatures.

The licensee has also evaluated the effects of the higher lake water temperature on other equipment and has concluded that the accident analysis is not affected. In the submittal dated July 28, 1987, the licensee stated that all of the equipment served by the service water system was purchased with a design inlet water temperature specification of 85 °F, except for the turbine-driven emergency feedwater pump lube oil cooler. This cooler has a design inlet temperature of 78 °F and is designed to control the lube oil temperature to between 130 °F and 160 °F. With the 78 °F inlet temperature, the lube oil cooler has been tested to verify its capability to maintain an oil temperature of 130 °F. Thus a 7 °F increase in inlet water temperature will result in an oil temperature of approximately 137 °F, which is within the 130 °F–160 °F temperature range for acceptable turbine operation. The staff concurs with the licensee's assessment.

In the July 28, 1987 submittal, the licensee also stated that there are 18 temperature sensors that monitor lake water temperature, with the results printed hourly by the plant computer system. The temperature monitoring instrumentation is calibrated during every refueling outage. The peak lake water temperature is also recorded daily. The licensee committed to reduce the power level setpoints to the values indicated above when the lake temperature reaches 74.5 °F and 79.5 °F, as appropriate, to provide assurance that the plant will be operated in accordance with its design basis and within the requirements of the Order.

In the July 28 and 29, 1987 submittals, the licensee further stated that all of the design-basis accidents identified in the FSAR for Oconee Unit 1, and their attending single active failures, have been reviewed. This review confirmed that, with an assumed 85 °F lake water temperature and appropriate reductions in power level, there will be no adverse impact on the public health and safety beyond that identified in the FSAR.

On the basis of the staff's previous approval of the licensee's calculational methodology, the verification of the operability of the components with an increased lake water temperature of 85 °F based upon reduced power levels, and the licensee's assurance that the lake water temperature is being appropriately monitored with action taken to reduce power level and the high-flux reactor trip setpoint as required, I conclude that there is reasonable assurance for safe plant operation until the end of Cycle 10. I further conclude that the heat removal capability provided at the reduced power level is adequate to ensure that no adverse consequences to the health and safety of the public will result beyond those identified in the FSAR.

I find the licensee's commitments acceptable and conclude that the plant's safety can be maintained until the fouling can be corrected and lake water temperatures decrease, and the unit returns to full power. I have determined that these commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to Sections 103, 161b, and 161i, of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and Part 50, *It Is Hereby Ordered, Effective Immediately*, that license DPR–38, is amended as follows:

(1) If the lake water temperature exceeds 74.5 °F, Oconee Unit 1 operation will be at reduced power levels and the RPS high flux trip setpoint will be reduced, as follows:

(a) If the lake water temperature is equal to or less than 80 °F, the RPS high flux trip setpoint shall be set so that the maximum allowable power level shall not exceed 89.6% rated power;

(b) If the lake water temperature is greater than 79.5 °F but equal to or less than 85 °F, the RPS high flux trip setpoint shall be set so that the maximum allowable power level shall not exceed 85.3% rated power; and

(c). If lake water temperature exceeds 85 °F, Unit 1 shall proceed to shut down in accordance with Technical Specification 3.0.

(2). The peak lake water temperature shall be recorded daily.

(3). Oconee Unit 1 shall not operate at any power level after the end of Cycle 10 unless the Regional Administrator, Region II, has approved the LPI and RBCU coolers for full power operation.

The Regional Administrator, Region II may relax or rescind any of the above conditions upon a showing by the licensee of good cause.

The licensee or any other person who has an interest adversely affected by this Order may request a hearing on this Order within 20 days of the date of its issuance. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy shall be sent to the Office of the General Counsel, Assistant General Counsel for Enforcement, at the same address, and the Regional Administrator, Region II, at 101 Marietta Street, NW., Suite 2900, Atlanta, Georgia 30303. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). A Request For Hearing Shall Not Stay The Immediate Effectiveness of This Order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at the hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland, this 6th of August 1987.

For The Nuclear Regulatory Commission.

James H. Sniezek,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 87–18364 Filed 8–11–87; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives a consolidated notice of all positions excepted under Schedules A, B, and C as of June 30, 1987, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CFR 6.1) requires the

Office of Personnel Management (OPM) to publish notice of all exceptions granted under Schedules A, B, and C. Title 5, Code of Federal Regulations, § 213.103(c), further requires that a consolidated listing, current as of June 30 of each year, shall be published annually as a notice in the **Federal Register**. That notice follows. OPM maintains continuing information on the status of all Schedule A, B, and C excepted appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by contacting the Staffing Policy Division, Room 6504, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, or by calling (202) 632–6817.

The following exceptions were current on June 30, 1987:

Schedule A

Section 213.3102 Entire executive civil service

(a) Positions of Chaplain and Chaplain's Assistant.

(b) [Reserved]

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 14 months pending admission to the bar. No person shall be given more than one appointment under this paragraph. However, an appointment that was initially made for less than 14 months may be extended for not to exceed 14 months in total duration.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any nontemporary position the duties of which are part-time or intermittent in which the appointee will receive compensation during his/her service year that aggregates not more than 40 percent of the annual salary rate for the first step of grade GS–3. This limited compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority may not be for temporary project employment.

(h) Positions in Federal mental institutions when filled by persons who have been patients of such institutions and have been discharged and are certified by an appropriate medical authority thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

(i) Subject to prior approval of OPM, positions requiring temporary, part-time, or intermittent employment in wage board type occupations (i.e., positions excluded from Classification Act coverage by section 202(7) of the Act) on construction or repair work, where the activity is carried on in localities where examination coverage for the positions has not been provided and where because of employment conditions there is a shortage of available candidates for the positions. Appointments under this paragraph shall not extend beyond 1 year and the employment thereunder shall not exceed 180 working days a year. Seasonal employments of a recurring nature are not authorized under this paragraph.

(j) Positions filled by: (1) Appointment of persons previously employed as National Guard Technicians under 32 U.S.C. 709(a) in positions at the same or equivalent grade level, or below, who are applying for or receiving an annuity under the provisions of 5 U.S.C. 8337(h) by reason of a disability that disqualifies them from membership in the National Guard or from holding the military grade required as a condition of their National Guard employment; or (2) reassignment, promotion or demotion within the same agency of former National Guard Technicians originally appointed under this authority.

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, or technical experts for consultation purposes.

(m) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) in field establishments outside central office and regional office cities of OPM where examination coverage has not been provided for the positions, as follows:

(1) For temporary, intermittent, or seasonal employment (exclusive of positions covered by paragraph (1) of this section) not to exceed 180 working days a year in the Departments of Agriculture, Commerce, Interior, and Energy, in the Federal Aviation Agency, and in the International Boundary and Water Commission; or

(2) When it is specifically held by OPM that this authority is applicable for employment in localities that are isolated with respect to labor supply and where there is a shortage of available candidates for the positions.

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis.

(o) Positions of a scientific, professional, or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employment under this provision shall not exceed 130 working days a year.

(p) Positions of a scientific, professional or analytical nature when filled by bona fide graduate students at accredited colleges or universities provided that the work performed for the agency is to be used by the student as a basis for completing certain academic requirements toward a graduate degree. Appointments under this authority may not exceed 1 year, but may be extended for additional period(s) not to exceed 1 year as long as the conditions for appointment continue to be met. The appointment of any individual under this authority shall terminate upon the individual's completion of requirements for the graduate degree.

(q) Positions at grade GS–7 and below when appointees are to assist scientific, professional, or technical employees. Persons employed under this provision shall be: (1) Bona fide high school science or mathematics teachers or (2) bona fide students at high schools or accredited colleges or universities who are pursuing courses related to the field in which employed. The appointment of any individual under this authority shall terminate upon the individual's ceasing to be enrolled in a qualifying educational program or to be employed as a teacher. No person shall be employed under this provision in (i) positions of a routine clerical type or (ii) positions in excess of 1040 working hours a year; except that the 1040 working-hours-a-year limitation shall not apply to positions at grade GS–4 and below which are established in connection with associate degree cooperative education programs. Students enrolled in bachelor's degree cooperative education programs as defined in § 213.3202(a) shall not be employed under this provision. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR Part 302 are consistent with the education and experience standards established for comparable positions in

the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(r)–(s) [Reserved]

(t) Positions when filled by mentally retarded persons in accordance with written agreements executed between an agency and OPM. Provisions to be included in such agreements are specified in the Federal Personnel Manual. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(u) Positions when filled by severely physically handicapped persons who: (1) Under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(v) Between May 13 and September 30 only, temporary Summer Aid positions the duties of which involve work of a routine nature not regularly covered under the General Schedule requiring no specific knowledge or skills, when filled by youths, either (1) appointed under economic needs standards prescribed by OPM or (2) who are mentally retarded or severely physically handicapped. Youths may not be appointed unless they have reached their 16th birthday. This paragraph shall apply only to positions for which pay is fixed at the highest Federal minimum wage rate established by the Fair Labor Standards Act of 1938, as amended.

(w) Part-time or intermittent positions, the duties of which involve routine work up to and including the GS–4 level of difficulty or equivalent under the Federal Wage System, when filled by bona fide students appointed under the Stay-in-School Program. Students may be appointed if they need the earnings from this employment to continue in school or if they are mentally retarded or severely physically handicapped, provided that the following conditions are met: (1) Appointees are enrolled in or accepted for enrollment as a resident student in a secondary school (or other appropriate school for mentally retarded students) or an institution of higher learning not above the baccalaureate level, accredited by a recognized accrediting body;

(2) Employment does not exceed 20 hours in any calendar week except that students may work full time during any period in which their school is officially closed and during any school vacation period;

(3) While employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer;

(4) Appointees meet the economic criteria prescribed by OPM, except that this requirement does not apply to mentally retarded or severely physically handicapped students appointed under the authority; and

(5) Salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance.

Appointments under this authority may not extend beyond 1 year. *However* such appointments may be made for additional periods of not to exceed 1 year each, if the conditions for initial appointment are still met. Students may not be appointed under this authority unless they have reached their 16th birthday. No new appointments may be made between May 13 and August 31, inclusive.

(x) Positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia, and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work release programs authorized by the States. Initial appointments under this authority may not exceed 1 year. An initial appoint ment may be extended for one or more periods not to exceed one additional year each upon a finding that the inmate is still in a work-release status and that a local recruiting shortage still exists. No person may serve under this authority longer than 1 year beyond the date of that person's release from custody.

(y) Positions at grade GS–2 and below for summer employment as defined in 213.3101(d), of assistants to scientific, professional, and technical employees, when filled by finalists in national science contests.

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its post-doctoral research associate program, may not exceed 2 years, and are subject to satisfactory outcome of evaluation of the associate's research during the first year.

(bb) Positions when filled by aliens in the absence of qualified citizens. Appointments under this authority are subject to prior approval of OPM except when the authority is specifically included in a delegated examining agreement with OPM.

(cc) Positions at GS–15 and below when filled by persons identified as Interchange Executives by the President's Commission on Personnel Interchange. Appointments made under this authority may not extend beyond 2 years.

(dd)–(ee) [Reserved]

(ff) Not to exceed 25 positions when filled in accordance with an agreement between OPM and the Department of Justice by persons in programs administered by the Attorney General of the United States under Pub. L. 91–452 and related statutes. A person appointed under this authority may continue to be employed under it after he/she ceases to be in a qualifying program only as long as he/she remains in the same agency without a break in service.

(gg)–(hh) [Reserved]

(ii) Positions of Presidential Intern, GS–9 and 11, in the Presidential Management Intern Program. Initial appointments must be made at the GS–9 level. No one may serve under this authority for more than 2 years, unless extended with OPM approval for up to one additional year. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive appointment under the provisions of Executive Order 12364, in accordance with requirements published in the Federal Personnel Manual.

(jj) Legal intern positions. Appointments under this paragraph shall be confined to bona fide students at recognized law schools who are candidates for J.D. or LL.B. degrees. Appointments under this authority may not exceed 1 year, but may be extended for additional period(s) not to exceed 1 year as long as the conditions for appointment continue to be met. The appointment of any individual under this authority shall terminate upon the individual's graduation from law school.

(kk) [Reserved]

(ll) Positions as needed of readers for blind employees, interpreters for deaf employees and personal assistants for handicapped employees, filled on a full time, part-time, or intermittent basis.

Section 213.3103 Executive Office of the President

(a) *Office of Administration.* (1) Not to exceed 75 positions to provide administrative services and support to the White House office.

(b) *Office of Management and Budget.* (1) Not to exceed 10 positions at grades GS–9/15.

(c) *Council on Environmental Quality.* (1) Professional and technical positions in grades GS–13 through –15 on the staff of the Council.

(d)–(f) [Reserved]

(g) *National Security Council.* (1) All positions on the staff of the Council.

(h) *Office of Science and Technology Policy.* (1) Thirty positions of Senior Policy Analyst, GS–15; Policy Analyst, GS–11/ 14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

Section 213.3104 Department of State

(a) *Office of the Secretary.* (1) All positions, GS–15 and below, on the staff of the Family Liaison Office, Office of the Under Secretary for Management.

(2)–(5) [Reserved]

(b) *American Embassy, Paris, France.* (1) Chief, Travel and Visitor Unit. No new appointments may be made under this authority after August 10, 1981.

(c) [Reserved]

(d) *International Boundary Commission, United States and Canada.* (1) Temporary and intermittent field employees such as instrument men, foremen, recorders, packers, cooks, and axemen, for not to exceed 180 working days within any one calendar year.

(e) *Bureau of Oceans and International Environmental and Scientific Affairs.* (1) Two Physical Science Administration Officer positions at GS–16.

(f) [Reserved]

(g) *Office of Refugee and Migration Affairs.* (1) Not to exceed 10 positions at grade 5 through 11 on the staff of the office.

(h) *Bureau of Administration.* (1) One Presidential Trip Specialist. No new appointments may be made under this authority after June 11, 1981.

Section 213.3105 Department of the Treasury

(a) *Office of the Secretary.* (1) Not to exceed 20 positions at the equivalent of GS–13 through GS–17 to supplement permanent staff in the study of complex problems relating to international financial, economic, trade and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(2) Not to exceed 20 positions, which will supplement permanent staff involved in the study and analysis of complex problems in the area of domestic economic and financial policy. Employment under this authority may not exceed 4 years.

(b) *U.S. Customs Service.* (1) Positions in foreign countries designated as "interpreter-translator" and "special employees," when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2) [Reserved]

(3) Positions of part-time, intermittent, or temporary Customs Inspectors, and Port Directors in Alaska paid at a rate not above GS–9 and for not more than 130 working days in a service year.

(4) [Reserved]

(5) Positions at GS–9 and below of Customs Enforcement Officer, Customs Inspector, Customs Marine Clerk/ Officer, Customs Aid (sampling), Customs Warehouse Officer, Port Director, Interpreter, and Laborer, with duties of a continuing nature that require the part-time or intermittent service of an employee for not more than 700 hours in his/her service year. An individual appointed under this exception may not be employed in the Bureau of Customs under a combination of this and any other exception for more than 700 hours in his/her service year.

(6) Twenty-five positions of Criminal Investigator for special assignments.

(7)–(8) [Reserved]

(9) Not to exceed 25 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(c) *Office of the Comptroller of the Currency.* (1) Not to exceed six positions filled under the Professional Accounting Fellow Program. Appointments under this authority may not exceed 2 years.

(d) [Reserved]

(e) *Internal Revenue Service.* (1) Twenty positions of investigator for special assignments.

(f) [Reserved]

(g) *Bureau of Alcohol, Tobacco, and Firearms.* (1) One hundred positions of criminal investigator for special assignments.

(h) [Reserved]

(i) *Bureau of Government Financial Operations.* (1) Clerical positions at grades GS–5 and below established in Emergency Disbursing Offices to process emergency payments to victims of catastrophes or natural disasters requiring emergency disbursing services. Employment under this authority may not exceed 1 year.

Section 213.3106 Department of Defense

(a) *Office of the Secretary.* (1) Not to exceed 30 positions at grades GS–6/15 in the Defense Mobilization Systems Planning Activity, Office of the Deputy Assistant Secretary of Defense (Mobilization Planning and Requirements.) No new appointments may be made under this authority after March 31, 1989.

(2)–(5) [Reserved]

(6) One Executive Secretary, US–USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force.)*

(1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in attache 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the Staffs of the Chaplains in the military services.

(5) Positions under the program for utilization of alien scientists approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the Department of Defense when filled by dependents of military or civilian employees of the U.S. Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or the separation of a dependent's sponsor: *Provided*, that (i) a school employee may be permitted to complete the school year; and (ii) an employee other than a school employee may be permitted to serve up to one additional year when

the military department concerned finds the additional employment is in the interest of management.

(7) Fifteen secretarial and staff support positions at GS–12 or below on the White House Support Group.

(c) *Defense Contract Audit Agency.* (1) Not to exceed two positions of Accounting Fellow, Auditor, GM–511–14, filled under the Accounting Fellowship Program. Appointments under this authority may not exceed 2 years.

(d) *General.* (1) Positions concerned with advising, administering, supervising or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to Cryptologic and Communications Intelligence Activities/Functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, or estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) *Uniformed Services University of the Health Sciences.*

(1) Positions of Dean, Associate Dean, Assistant Dean, faculty members, postdoctoral fellows, research associates, senior research associates, and visiting scientists.

(2) Positions established to perform work on projects funded from grants.

(f) *National Defense University.* (1) Not to exceed 16 positions of senior policy analyst, GS–15, at the strategic Concepts Development Center. Initial appointments to these positions may not exceed 6 years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

(g) *Defense Communications Agency.* (1) Not to exceed 10 positions at grades GS–10/15 to staff and support the Crisis Management Center at the White House.

Section 213.3107 Department of the Army

(a) *General.* (1) Not to exceed 30 positions on the faculty and staff which are classified in the GS–1700 occupational group and the GS–1410 Librarian series, located at the U.S. Army Russian Institute, Garmisch Germany, and the U.S. Army Foreign Language Training Center Europe, Munich, Germany.

(b) *Aviation Systems Command.* (1) One scientific and professional research position in the U.S. Army Research and Technology Laboratories, the duties of which require specific knowledge of aviation technology in non-allied nations.

(c) *Corps of Engineers.* (1) [Reserved]

(2) Nonsupervisory trades, crafts, and manual labor positions at grades WG–6 and below on survey, construction, short-term maintenance, or floating-plant operations, where because of turnover, lack of housing facilities, mobility of work site, or remoteness of personnel servicing facilities, an adequate labor force can be recruited only by immediate gate hiring on a local basis. This authority can be used only when OPM has determined that it is specifically applicable to a given situation; ordinarily, it will not be used for employment in OPM central office, regional, and branch office cities or in cities where there is a local OPM area office to service the employing establishment.

(d) *U.S. Military Academy, West Point, New York.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, chapel organist and choir-master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and librarian when filled by an officer of the Regular Army retired from active service, and the military secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e) *U.S. Army School of the Americas, Fort Benning, Georgia.*

(1) Positions of Translator (Typing), GS–1040–5/9, and Supervisory Translator, GS–1040–11. No new appointments may be made under this authority after December 31, 1985.

(f) [Reserved]

(g) *Defense Language Institute.* (1) All positions of the faculty and staff which are classified in the GS–1700 occupational group, the GS–1040 Language Specialist series, and the GS–303 Bilingual Clerk series, that require either a proficiency in a foreign language or a knowledge of foreign language teaching methods.

(2)–(4) [Reserved]

(h) *Army War College, Carlisle Barracks, Pa.* (1) Five positions of Educational Specialist for employment of not to exceed 1 year: Provided, that such employment may, with the prior approval of OPM, be extended for not to exceed one additional year.

(2) Nine senior policy analyst positions, GS–14/15, at the Strategic Studies Institute, Army War College, with appointments to be made initially for up to 3 years and thereafter extended annually if needed.

(3) Five research oriented faculty positions, GS–14/15, with the U.S. Army War College, at Carlisle Barracks, Pennsylvania, with appointments to be made initially for up to 3 years and thereafter extended annually if needed.

(i) *Defense Systems Management School, Fort Belvoir, Va.*

(1) The Deputy Commandant and professors in grades GS–13 through 15.

(j) *U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey.* (1) Positions of Academic Director, Department Head and Instructor.

Section 213.3108 Department of the Navy

(a) *General.* (1) [Reserved]

(2) Positions of Student Pharmacist for temporary, part time, or intermittent employment in U.S. Naval Regional Medical Centers, hospitals, clinics and departments when filled by students who are enrolled in an approved pharmacy program in a participating non-Federal institution, and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(3) [Reserved]

(4) Not to exceed 50 positions of resident-in-training at U.S. naval regional medical centers, hospitals, and dispensaries which have residency training programs, when filled by residents assigned as affiliates for part of their training from non-Federal hospitals. Assignments shall be on a temporary (full-time or part-time) or intermittent basis, shall not amount to more than 6 months for any person, and shall be applied only to persons whose compensation is fixed under 5 U.S.C. 5351–54.

(5) [Reserved]

(6) Positions of Student Operating Room Technician for temporary, part-time or intermittent employment in U.S. naval regional medical centers and hospitals, when filled by students who are enrolled in an approved operating room technician program in a participating non-Federal institution, whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(7) Positions of student social worker for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by bona fide students enrolled in academic institutions: *Provided*, that the work performed in the agency is to be used by the student as a basis for completing certain academic requirements by such educational institution to qualify for a graduate degree in social work. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(8) Positions of student practical nurse for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by trainees enrolled in a non-Federal institution in an approved program of educational and clinical training which meets the requirements for licensing as a practical nurse. This authority shall be applied only to trainees whose compensation is fixed under 5 U.S.C. 5351–54.

(9) One Personnel Security Specialist, Naval Personnel Program Support Activity, Bureau of Naval Personnel.

(10) Positions of medical technology intern in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by students enrolled in approved programs of training in non-Federal institutions. Employment under this authority may be filled on a full-time, part-time, or intermittent basis but may not exceed 1 year. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(11) Positions of medical intern at U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are serving medical internships at participating non-Federal hospitals and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(12) Positions of student speech pathologist at U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are enrolled in participating non-Federal institutions and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(13) Positions of student dental assistant in U.S. naval dental centers, clinics, and departments, when filled by students who are enrolled in an approved dental assistant program in a participating non-Federal institution, and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(14) [Reserved]

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(b) *Naval Academy, Naval Postgraduate School, and Naval War College.* (1) Professors, instructors, and teachers; the Director of Academic Planning, Naval Postgraduate School; and the librarian, organist-choirmaster, registrar, the dean of admissions, and social counselors at the Naval Academy.

(c) *Chief of Naval Operations.* (1) One position at grade GS–12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

(d) *Military Sealift Command.* (1) All positions on vessels operated by the Military Sealift Command.

(e)–(f) [Reserved]

(g) *Office of Naval Research.* (1) Not to exceed 5 positions of Liaison Scientists, GS–13/15, in the office of Naval Research Branch Office in Japan, when filled by research scientists who have specialized experience in scientific disciplines of current interest to the Department and who have a demonstrated ability to deal with the Japanese scientific community in their disciplines. An appointment under this authority may be made initially for a period not to exceed 2 years. With the prior approval of OPM, total employment under this authority may be for as long as 3 years.

Section 213.3109 Department of the Air Force

(a) *Office of the Secretary.* (1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) *General.* (1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Sixty positions engaged in interdepartmental defense projects involving scientific and technical evaluations.

(c) Not to exceed 20 professional positions, GS–11 through GS–15, in Detachments 6 and 51, SM–ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

(d) *U.S. Air Force Academy, Colorado.* (1) Positions of Cadet Hostesses, Instructors in Physical Education, Instructors in Music (choirmasters), one Training Instructor (Parachuting), one Training Instructor (Code of Conduct and Evasion), and two Physical Therapists/Athletic Trainers.

(e) Not to exceed five positions, GS–12 through GS–15, in the Specialized Management Office (WR–ALC/QL) at Robins Air Force Base, Georgia, which will provide logistic support management staff guidance for highly sensitive and high priority programs and projects. Employment under this authority is not to exceed May 30, 1988.

(f) *Air Force Office of Special Investigations.* (1) Not to exceed 250 positions of Criminal Investigators/Intelligence Research Specialists, GS–5 through GS–15.

(g) Not to exceed 8 positions, GS–12 through 15, in Headquarters Air Force Logistics Command, DCS Materiel Management, Office of Special Activities, Wright Patterson Air Force Base, Ohio, which will provide logistic support and security management staff guidance to classified research and development projects.

(h) [Reserved]

(i) *Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio.* (1) Civilian deans and professors.

Section 213.3110 Department of Justice

(a) *General.* (1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) [Reserved]

(3) U.S. Marshal in the Virgin Islands.

(b) *Immigration and Naturalization Service.* (1) Not to exceed 3,500 positions at grades GS–15 and below engaged in planning for and implementing the processing of claims for resident status which may be submitted by aliens already in the United States as authorized by immigration control and reform legislation. New appointments under this authority may not be made after December 31, 1990.

(2) Not to exceed 500 positions of interpreters and language specialists, GS–1040–5/9.

(c) *Drug Enforcement Administration.* (1) [Reserved]

(2) One hundred and fifty positions of Intelligence Research Agent and/or Intelligence Operation specialist in the GS–132 series, grades GS–9 through GS–15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS–7/11.

Section 213.3112 Department of the Interior

(a) *General.* (1) Technical, maintenance, and clerical positions at or below grades GS–7, WG–10, or equivalent in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS–7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: *Provided*, that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible, for defining the term "Indian."

(8) Temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in non-professional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work for not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum rate. Employment under this authority may not exceed 10 weeks.

(b) [Reserved]

(c) *Indian Arts and Crafts Board.* (1) The Executive Director.

(d) [Reserved]

(e) *Office of the Assistant Secretary, Territorial and International Affairs.* (1) [Reserved]

(2) Not to exceed 4 positions of Territorial Management Interns, grades GS–5, GS–7, or GS–9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) [Reserved]

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his immediate staff.

(f) *National Park Service.* (1) Park Ranger positions (appropriate specializations) at salaries equivalent to GS–2 through GS–5 to perform practical and technical work supporting the management of Park Service areas and resources in the functional areas of interpretation, resources management, visitor protection, and visitor services; and positions at salaries equivalent to grades GS–6 and GS–7 in which the duties are supervisory or consist of highly specialized technical work in support of National Park Service operations in the functional areas delineated above. The total number of Park Ranger positions at salaries equivalent to GS–6 and GS–7 excepted under this paragraph shall not exceed 200. Employment under this paragraph is limited to persons who meet the qualification standards for each salary level that have been agreed upon by OPM and the Department of the Interior. These standards include as a minimum the following number of previous seasons' experience at a salary equivalent to the next lower grade or equivalent experience in a Federal, State, or local park:

(i) For IGS–7: Two seasons at IGS–6 level in the National Park Service.

(ii) For IGS–6: Two seasons at IGS–5 level in the National Park Service.

(iii) For IGS–5: One season at IGS–4 level or its equivalent in experience.

(iv) For IGS–4: One season at IGS–3 level or its equivalent in experience.

(v) For IGS–3: One season at IGS–2 level or its equivalent in experience.

Employment under this paragraph shall be only for duty that is temporary, intermittent, or seasonal, and no person shall be employed by the same appointing office in the National Park Service under this paragraph or a combination of this and any other excepting authorities in excess of 180 working days a year.

(2) [Reserved]

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Pub. L. 95–250.

(4) One Special Representative of the Director.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values or conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided*, that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) *Office of the Deputy Assistant Secretary for Territorial Affairs.* (1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

Section 213.3113 Department of Agriculture

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the Statistical Reporting Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural Commodity grader (grain) and (meat), (poultry), and (dairy) agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) [Reserved]

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for subprofessional services; caretakers at temporarily closed camps or improved areas; forest workers engaged primarily for fire prevention or suppression activities and other forest workers employed at headquarters other than forest supervisor and regional offices; State performance assistants in the Agricultural Stabilization and Conservation Service; agricultural helpers, helper-leaders, and workers in the Agricultural Research and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: *Provided,* that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraphs (i) and (m) of 213.3102.

(6) [Reserved]

(7) Not to exceed 30 Program Assistants, whose experience acquired in positions excepted from the competitive civil service in the administration of agricultural programs at the State level is needed by the Department for the more efficient administration of its programs. No new appointment may be made under this authority after December 31, 1985.

(b) [Reserved]

(c) *Forest Service.* (1) [Reserved]

(2) Positions in Alaska of Laborers, Boat Operaters, Mechanics, Equipment Operators, and Carpenters whose duties require the operation of boats in coastal waters and/or the establishment and maintenance of work camps in remote areas.

(d) *Agricultural Stabilization and Conservation Service.*

(1) Not to exceed 24 positions of Agricultural Program Specialist, GS–1145–7/12, engaged in conversion of ASCS' directives and information system to a completely automated format. Appointments to these positions may be made initially at the GS–7/11 levels and may not exceed September 30, 1989.

(2) Members of State Committees: *Provided,* that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(3) [Reserved]

(e) *Farmers Home Administration.* (1) [Reserved]

(2) County committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(3) Temporary positions whose principal duties involve the making and servicing of natural disaster emergency loans pursuant to current statutes authorizing natural disaster emergency loans. Appointments under this provision shall not exceed 1 year unless extended for one additional period not to exceed 1 year, but may, with prior approval of OPM, be further extended for additional periods not to exceed 1 year each.

(4)–(5) [Reserved]

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) *Agricultural Marketing Service.* (1) Positions of: Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists at grades GS–11 and below; Clerks at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to 1280 hours or 180 days in a service year. Until December 31, 1987, Meat Acceptance Specialists engaged in work required by the Food Security Act of 1985 may be employed without regard to the hour limitation.

(2) Positions of: Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, and processed fruit and vegetable commodities. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the service year limitation.

(3) Milk Market Administrators.

(4) All positions on the staffs of Milk Market Administrators.

(g)–(i) [Reserved]

(j) *Food and Nutrition Service.* (1) [Reserved]

(2) Three hundred and fifty positions of food assistance program specialist, GS–5/7, under the Child Nutrition Summer Feeding Program, for temporary employment not to begin before March 1 and not to exceed September 30 of each year, on a full-time, part-time, or intermittent basis.

(k) [Reserved]

(2) Temporary field positions concerned with the control, suppression, and eradication of emergency livestock and plant diseases and emergency outbreaks of animal and plant pests. Persons appointed under this authority may not be employed in these positions in the Animal and Plant Health Inspection Service for longer than 1 year under this authority, or under a combination of this and any other authorities for excepted appointment that may be appropriate without prior approval of OPM. This authority shall be appropriate only in situations declared by the Secretary of Agriculture

to be emergencies threatening the livestock and plant industries of the country.

(1) *Food Safety and Inspection Service.* (1)–(2) [Reserved]

(3) Positions of meat and poultry inspectors (veterinarians at GS–11 and below and nonveterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) *Federal Grain Inspection Service.* (1) One hundred and fifty positions of Agricultural Commodity Aid (Grain), GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

Section 213.3114 Department of Commerce

(a) *General.* (1)–(2) [Reserved]

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in continental United States for periods of orientation, training, analysis of data, and report writing.

(b) *Office of the Secretary.* (1) One position of Administrative Assistant, GS–301–8, in the Office of Economic Affairs. New appointments may not be made after March 30, 1979.

(c) [Reserved]

(d) *Bureau of the Census.* (1) Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for temporary, part-time or intermittent employment in connection with major economic and demographic censuses or with surveys of a nonrecurring or noncyclical nature: *Provided,* that temporary, part-time employment will be for periods not to exceed 1 year; and that such appointments may be extended for additional periods of not to exceed 1 year each; but that prior OPM approval is required for extension of total service beyond 2 years.

(2) Current Program Interviewers employed on an intermittent or part-time basis in the field service.

(3) Not to exceed 20 professional and scientific positions at grades GS–9 through GS–12 filled by participants in the ASA research trainee program. Employment of any individual under this authority may not exceed 2 years.

(e)–(h) [Reserved]

(i) *Office of the Under Secretary for International Trade.* (1) Thirty positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) Not to exceed 40 positions of Managers and Deputy Managers of International Trade Fairs and Exhibit Programs in foreign countries when the duties require a considerable portion of the employee's time to be spent in foreign countries.

(3) Not to exceed 30 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit practices applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period of not to exceed 2 years and may, with prior approval of OPM, be extended for an additional period of 2 years.

(j) *National Oceanic and Atmospheric Administration.* (1) Subject to prior approval of OPM, which shall be contingent upon a showing of inadequate housing facilities, meteorological aid positions at the following stations in Alaska: Barrow, Bethal, Kotzebue, McGrath, Northway, and St. Paul Island.

(2) [Reserved]

(3) All civilian positions on vessels operated by the National Ocean Survey.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Survey. Appointment to such positions shall not exceed 8 months in any one calendar year.

(k) [Reserved]

(l) *National Telecommunication and Information Administration.* (1) Seventeen professional positions in grades GS–13 through GS–15.

Section 213.3115 Department of Labor

(a) *Office of the Secretary.* (1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b) *Bureau of Labor Statistics.* (1) Not to exceed 500 positions involving part-time and intermittent employment for field survey and enumeration work in the Bureau of Labor Statistics. This authority is applicable to positions where the salary is equivalent to GS–6 and below. Employment under this authority may not exceed 1,600 work hours in a service year. No new appointment may be made under this authority after December 31, 1984.

(c) [Reserved]

(d) *Employment and Training Administration.* (1) Not to exceed 10 positions of supervisory manpower development specialist and manpower development specialist, GS–7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

Section 213.3116 Department of Health and Human Services

(a) *Saint Elizabeth's Hospital.* (1)–(4) [Reserved]

(5) Fifteen positions of psychodrama trainees, including interns and first- and second-year residents. This authority shall be applied only to positions with compensation fixed under 5 U.S.C. 5351 and 5352.

(6)–(8) [Reserved]

(9) Positions of Chaplain Residents: *Provided,* that employment under this authority shall not exceed 39 months for any individual. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of 5 U.S.C. 5351 and 5352.

(10) [Reserved]

(11) Ten positions of group dynamics and group psychotherapy trainees, including interns and residents in the Overholser Training and Research Division. Employment under this authority shall not exceed 2 years, and shall be applied only to positions with compensation fixed under 5 U.S.C. 5351 and 5352.

(12) Ten positions of Interns, Residents and Fellows for work in mental health and deafness. Employment under this authority may not exceed 1 year for any individual.

(13) Fifteen positions of Interns and Residents in Applied and Evaluative Research (Mental Health) Program. Employment under this authority may not exceed 2 years for any individual.

(b) *Public Health Service.* (1) Not to exceed five positions a year of Medical Technologist Resident, GS–644–7/9, in the Blood Bank Department, Clinical Center, of the National Institutes of Health. Appointments under this authority will not exceed 1 year.

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) All positions in the Public Health Service Hospital, Carville, La.

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the cooperating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5) Medical and dental interns, externs, and residents; and student nurses.

(6) Positions of scientific, professional, or technical nature when filled by bona fide students enrolled in academic institutions: *Provided,* that the work performed in the agency is to be used by the student as a basis for completing certain academic requirements required by an educational institution to qualify for a scientific, professional, or technical field: *And provided further,* that appropriate exclusions of the positions under the authority of Pub. L. 80–330 have been approved by OPM.

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term "Indian."

(9) Twelve positions of Therapeutic Radiologic Technician Trainee in the Radiation Oncology Branch, National Cancer Institute. Employment under this authority shall not exceed 1 year for any individual. This authority shall be applied only to positions with compensation fixed under 5 U.S.C. 5351–5356.

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11) Pharmacy Resident positions at GS–7 in the National Institutes of Health's Clinical Center, Pharmacy Department. Employment in these positions is confined to graduates of approved schools of pharmacy and is limited to a period not to exceed 12 months pending licensure.

(12) Hospital Administration Resident positions at GS–9 in the National Institutes of Health's Clinical Center, Bethesda, Maryland. Employment in these positions is confined to graduates of approved hospital or health care administration programs and is limited to a period not to exceed 1 year.

(13) Not to exceed 30 positions of Cancer Control Science Associate in the Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, for assignments at a level of difficulty and responsibility at or equivalent to GS–11/13. No one may be employed under this authority for more than 3 years, and no more than 10 appointments will be made under the authority in any 1 year.

(14) Not to exceed 30 positions at grades GS–11/13 associated with the postdoctoral training program for interdisciplinary toxicologists in the National Institute of Environmental Health Sciences, National Institutes of Health, Research Triangle Park, North Carolina.

(c) [Reserved]

(d) *Social Security Administration.* (1) Six positions of social insurance representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(2) Seven positions of social insurance representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(3) Two positions of social insurance representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointment of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

(e) [Reserved]

(f) *The President's Council on Physical Fitness.* (1) Four staff assistants, The President's Council on Physical Fitness.

(g)–(i) [Reserved].

(j) *Health Care Financing Administration.* (1) [Reserved]

(2) Not to exceed 10 professional positions, GS–9 through GS–15, to be filled under the Health Care Financing Administration Professional Exchange Program. Appointments under this authority will not exceed 1 year.

(k) *Office of the Secretary.* (1) [Reserved].

(2) Not to exceed 10 positions at grades GS–9/14 in the Office of the Assistant Secretary for Planning and Evaluation filled under the Policy Research Associate Program. New appointments to these positions may be made only at grades GS–9/12. Employment of any individual under this authority may not exceed 2 years.

Section 213.3117 Department of Education

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

Section 213.3124 Board of Governors, Federal Reserve System

(a) All positions.

Section 213.3127 Veterans Administration

(a) *Construction Division.* (1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

(b) Not to exceed 400 positions of rehabilitation counselors, GS–3 through GS–11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) [Reserved]

(d) Not to exceed 600 positions at grades GS–3 through GS–11, involved in the Veterans Administration Vietnam Era Veterans Readjustment Counseling Program. No one may serve under this authority after August 31, 1988.

Section 213.3128 U.S. Information Agency

(a) *Office of Congressional and Public Liaison.* (1) Two positions of Liaison Officer (Congressional), GS–14.

(b) Five positions of Supervisory International Exchange Officer (Reception Center Director), GS–13 and GS–14, located in USIA's field offices of New Orleans, New York, Miami, San Francisco and Honolulu. Initial appointments will not exceed December 31 of the calendar year in which appointment is made with extensions permitted up to a maximum period of 4 years.

Section 213.3130 Securities and Exchange Commission

(a)–(b) [Reserved]

(c) Positions of accountant and auditor, GS–13 through 15, when filled by persons selected under the SEC Accounting Fellow Program, as follows:

(1) Five positions, for employment of any one individual not to exceed 2 years; and

(2) Two additional identical positions, for employment of any one individual not to exceed 90 days, which may be used to provide a period of transition and orientation between Fellowship appointments. These additional identical positions must be filled by persons who either have completed a 2-year Fellowship or have been selected as replacement Fellows for a 2-year term. Appointments of outgoing Fellows under this authority must be made without a break in service of 1 workday following completion of their 2-year terms; incoming Fellows appointed under this provision must be appointed to 2-year Fellowships without a break in service of 1 workday following their 90-day appointments.

(d) Positions of Economist, GS–13 through 15, when filled by persons selected under the SEC Economic Fellow Program. No more than four positions may be filled under this authority at any one time. An employee may not serve under this authority longer than 2 years unless selected under provisions set forth in the Intergovernmental Personnel Act (IPA), 5 U.S.C. 3372(b)(2).

Section 213.3131 Department of Energy

(a) [Reserved].

(b) *Bonneville Power Administration.*

(1) Five Area Managers.

Section 213.3132 Small Business Administration

(a) When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior OPM approval. Appointments under this authority may not be used to extend the 2-year service limit contained in paragraph (b) below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855–1855g, or the Secretary of Agriculture under 7 U.S.C. 1961 or the Small Business Administration under 15 U.S.C. 636(b)(1), declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(c) Positions of Community Economic-Industrial Planner, GS–7 through 12, when filled by local residents who represent the interest of the groups to be served by the Minority Entrepreneurship Teams of which they are members. No new appointments may be made under this authority after May 1, 1977.

Section 213.3133 Federal Deposit Insurance Corporation

(a) All Liquidation Graded, temporary field positions concerned with the work of liquidating the assets of closed banks, of liquidating loans to banks, or of paying the depositors of closed insured banks. New appointments may be made under this authority only during the 5-year period following a bank closing and/or establishment of a consolidated liquidation site.

Section 213.3136 U.S. Soldiers' and Airmen's Home

(a) All positions.

Section 213.3137 General Services Administration

(a) [Reserved]

(b) Not to exceed 25 positions at grades GS–14/15, in order to bring into the agency current industry expertise in various program areas. Appointments under this authority may not exceed 2 years.

Section 213.3141 National Labor Relations Board

(a) Election Examiners for temporary, part-time or intermittent employment in connection with elections under the Labor-Management Relations Act.

Section 213.3142 Export-Import Bank of the United States

(a) One Special Assistant to the Board of Directors, grade GS–14 and above.

Section 213.3146 Selective Service System

(a) State Directors.

(b)–(c) [Reserved]

(d) Executive Secretary, National Selective Service Appeal Board.

Section 213.3148 National Aeronautics and Space Administration

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

(b) Not to exceed 40 positions of fully qualified pilot and mission specialists astronauts.

(c)–(e) [Reserved]

(f) Positions of Program Coordinator/Counselor at grades GS–7/9/11 for part-time and summer employment in connection with the High School Students Summer Research Apprenticeship Program.

Section 213.3152 U.S. Government Printing Office

(a) Not to exceed three positions of Research Associate at grades GS–15 and below, involved in the study and analysis of complex problems relating to the reduction of the Government's printing costs and to provision of more efficient service to customer agencies and the public. Appointments under this authority may not exceed 1 year, but may be extended for not to exceed one additional year.

(b) Positions in the printing trades when filled by students majoring in printing technology employed under a cooperative education agreement with the University of the District of Columbia.

Section 213.3154 Federal Home Loan Bank Board

(a) One Secretary, Federal Home Loan Bank Board.

(b) [Reserved]

(c) Positions in the Federal Savings and Loan Insurance Corporation concerned with the work of liquidating the assets of closed insured institutions or the liquidation of loans or the handling of contributions to insured institutions and the purchase of assests therefrom; and positions of the Federal Savings and Loan Insurance Corporation the work of which is

concerned with paying the depositors of closed insured institutions. Appointments under this authority may not exceed 3 years.

Section 213.3156 Commission on Civil Rights

(a) Twenty-five positions at grade GS–11 and above of employees who collect, study, and appraise civil rights information to carry out the national clearinghouse responsibilities of the Commission under Pub. L. 88–352, as amended. No new appointments may be made under this authority after March 31, 1976.

Section 213.3174 Smithsonian Institution

(a) Not to exceed 25 positions at grades GS–11 and below that support planning and production of the Annual American Folklife Festival. Employment under this authority may not exceed 6 months in connection with any one Festival.

(b) All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) One Russian Studies Program Administrator, one East Asian Studies Program Administrator, one International Security Studies Program Administrator, and one Latin American Program Administrator in the Woodrow Wilson International Center for Scholars.

Section 213.3182 National Foundation on the Arts and the Humanities

(a) *National Endowment for the Arts.* (1) Until September 30, 1990, one position of Assistant Director, Artists-in-Education Programs, Office for Partnership, GS–301–14.

(2) Until September 30, 1990, one position of Assistant Director for State Programs.

(3) Until September 30, 1990, one position of Director of Literature Programs.

(4) Until September 30, 1990, one position of Assistant Director of Theatre Programs.

(5) Until September 30, 1990, one position of Director of Folk Arts Programs.

(6) Until September 30, 1990, one position of Director, Opera/Musical Theatre Programs.

(7) Until September 30, 1990, one position of Assistant Director of Opera/Musical Theatre Programs.

(8) Until September 30, 1990, one position of Assistant Director of Literature Programs.

(9) Until September 30, 1990, one position of Director of Locals Test Programs, Office of the Deputy to the Chairman for Public Partnership.

(10) Until September 30, 1990, one position of Deputy Chairman for Public Partnership.

(11) Until September 30, 1990, four Project Evaluators.

(12) Until September 30, 1990, one position of Director of Museum Programs.

(13) Until September 30, 1990, one position of Assistant Director of Folk Arts, Office of the Deputy Chairman for Programs.

(14) Until September 30, 1990, one position of Assistant Director of Music Programs.

(15) Until September 30, 1990, one position of Director of Expansion Arts Programs.

(16) Until September 30, 1990, one position of Director of Media Arts Programs.

(17) Until September 30, 1990, one position of Director, Challenge and Advancement Grant Program.

(18)–(19) [Reserved]

(20) Until September 30, 1990, one position of Director of Inter Arts Program.

(21) Until September 30, 1990, one position of Assistant Director of Expansion of Arts Programs.

(22) Until September 30, 1990, one position of Assistant Director of Media Arts Programs.

(23) Until September 30, 1990, one position of Assistant Director of Design Arts Program.

(24) Until September 30, 1990, one position of Assistant Director of Dance Programs.

(25) Until September 30, 1990, one position of Assistant Director of Visual Arts Programs.

(26) Until September 30, 1990, one position of Assistant Director of Museum Programs.

(27)–(29) [Reserved]

(30) Until September 30, 1990, one position of Director of Education Programs.

(31) Until September 30, 1990, one position of Director of Music Programs.

(32) Until September 30, 1990, one position of Director of Theater Programs.

(33) Until September 30, 1990, one position of Director of Dance Programs.

(34) Until September 30, 1990, one position of Director of Visual Arts Programs.

(35) Until September 30, 1990, one position of Director of Design Arts Program.

(36) [Reserved]

(37) Until September 30, 1990, one Director for State Programs.

(38) Until September 30, 1990, one Director for Artists-in Education Programs.

Section 213.3184 Department of Housing and Urban Development

(a) One position of Special Advisor to the Regional Administrator, GS–301–14, in San Francisco. Employment under this authority may not exceed 2 years.

Section 213.3191 Office of Personnel Management

(a) Not to exceed 500 positions in Federal Job Information Centers, to be filled under the Community Outreach Information Network program. Appointments under this authority may not exceed 90 days, and no one may receive more than one appointment under the authority.

(b)–(c) [Reserved]

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

Section 213.3194 Department of Transportation

(a) *U.S. Coast Guard.* (1) Not to exceed 25 positions of Marine Traffic Controller (Pilot), at grade GS–11 and below for temporary, intermittent or seasonal employment in the State of Louisiana. Temporary appointments may not exceed 1 year, and temporary appointees may be reappointed under this authority only after a break in service of at least 6 months. Intermittent or seasonal employment may not exceed 180 working days in a service year, except that this limitation for an individual employee may be extended to 220 days when necessitated by emergencies caused by unusual flooding conditions or high river stages.

(2) Lamplighters.

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Conn.

(b) *Federal Aviation Administration.* (1) Positions at Washington National and Washington Dulles International Airports. This authority applies only to positions that become vacant before control of the airports is transferred to the Metropolitan Washington Airports Authority and that are filled with the concurrence of the Authority.

(c) *Federal Highway Administration.* (1) Temporary, intermittent, or seasonal employment in the field service of the Federal Highway Administration at grades not higher than GS–5 for subprofessional engineering aide work on the highway surveys and

constructions projects, for not to exceed 180 working days a year, when in the opinion of OPM, appointment through competitive examination is impracticable.

(d) [Reserved]

(e) *Maritime Administration.* (1)–(2) [Reserved]

(3) All positions on Government-owned vessels or those bare-boats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) [Reserved]

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers: including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Asssistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

Section 213.3195 Federal Emergency Management Agency

(a) Field positions at grades GS–15 and below, or equivalent, that are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Pub. L. 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort.

(b) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate that are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Pub. L. 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority.

(c) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS).

Section 213.3199 Temporary Organizations

(a) Positions at GS–15 and below on the staffs of temporary boards and commissions which are established by law or Executive order for specified periods not to exceed 4 years to perform specific projects. A temporary board or commission originally established for less than 4 years and subsequently extended may continue to fill its staff positions under this authority as long as its total life, including extension(s) does not exceed 4 years. No board or commission may use this authority for more than 4 years to make appointments and position changes unless prior approval of the Office is obtained.

(b) Positions at GS–15 and below on the staffs of temporary organizations established within continuing agencies when all of the following conditions are met: (1) The temporary organization is established by an authority outside the agency, usually by law or Executive order; (2) the temporary organization is established for an initial period of 4 years or less and, if subsequently extended, its total life including extension(s) will not exceed 4 years; (3) the work to be performed by the temporary organization is outside the agency's continuing responsibilities; and (4) the positions filled under this authority are those for which other staffing resources or authorities are not available within the agency. An agency may use this authority to fill positions in organizations which do not meet all of the above conditions or to make appointments and position changes in a single organization during a period longer than 4 years only with prior approval of OPM.

Schedule B

Section 213.3202 Entire Executive Civil Service

The provisions established under paragraphs (a) through (i) are authorized under provisions of E.O. 12015 and support career-related work-study programs. OPM's requirements relating to appointment under paragraphs (a) through (i) will be published in the Federal Personnel Manual. Further, appointments under paragraphs (a) through (i) are subject to all the requirements and conditions governing career or career-conditional appointments, including investigation by OPM to establish an appointee's qualifications and suitability. Appointments of participants may be converted to career or career-conditional at any time within a 120-day period after satisfactory completion of a career-related work-study program.

(a) Student positions established in connection with a bachelor's degree cooperative education program which provide for a formally arranged schedule of attendance at an institution of higher learning combined with at least 26 weeks, or 1040 hours, of study-related work in a Federal agency. The periods of work and study together must satisfy requirements for a bachelor's degree and must provide the experience necessary for a career or career-conditional appointment to administrative, professional or technical positions in the Federal career service upon the student's graduation.

(b) Student positions established in support of cooperative education programs for graduate students which provide for scheduled periods of attendance at a graduate school combined with a least 16 weeks or 640 hours of study-related work in a Federal agency. The periods of work and study must satisfy requirements for the graduate degree and provide experience necessary for career or career-conditional appointment in the Federal career service upon the student's graduation.

(c) Student positions established in connection with associate degree cooperative education programs which provide for formally arranged schedules of attendance at a recognized 2-year educational institution combined with at least 26 weeks or 1040 hours of study-related work in a Federal agency. The periods of work and study together must satisfy the requirements for graduation and must provide the experience necessary for career or career-conditional appointment in selected occupations in the Federal career service upon the student's graduation.

(d) Student positions established in connection with the Harry S. Truman Foundation Scholarship Program under the provisions of Pub. L. 93–642 to permit scheduled periods of attendance at institutions of higher education combined with at least 26 weeks or 1040 hours of study-related work in a Federal agency. The periods of work and study must satisfy requirements of programs established by agreement between the

Harry S. Truman Scholarship Foundation and the employing agency and provide the experience necessary for career or career-conditional appointment in the Federal career service upon the student's graduation.

(e) Positions at shipyards, air rework facilities and other major industrial activities that prepare students at the high school level (upon satisfactory completion of a cooperative education program of at least 1,040 hours) for employment in preapprentice positions or in helper positions at the WG–5 level or below. Agencies may make appointments under this authority only with prior approval of OPM and only under the following conditions:

(1) Employment is limited to skilled trades and crafts occupations having a journeyman level of WG–9 or above;

(2) Not more than 25 percent of appointments to positions in covered occupations will be made annually at any single installation through this conversion authority;

(3) The maximum time during which any student will be employed in the program is 18 months;

(4) Except for conditions specified in this authority, students will be subject to instructions governing all other high school vocational education students in cooperative education programs; and

(5) Any student who completes a program without a diploma must have an authenticated certificate from the school indicating satisfactory completion in his/her personnel folder.

(f) Positions under the Federal Junior Fellowship Program, a career-related work-study program covered under the provisions of E.O. 12015.

(g)–(i) [Reserved]

(j) Special executive development positions established in connection with Senior Executive Service candidate development programs which have been approved by OPM. A Federal agency may make new appointments under this authority for any period of employment not exceeding three years for one individual.

(k) Positions at grades GS–15 and below when filled by individuals who: (1) Are placed at a severe disadvantage in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disability; and (2) are certified to a specific position by a State vocational rehabilitation counselor or a Veterans Administration counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the positions to which they will be appointed, and that any residual disability is not job related. Employment of any individual under this authority may not exceed 2 years following each significant period of mental illness.

(l) Professional and administrative career (PAC) positions at the GS–5 or GS–7 grade level which are subject to the decree entered on November 19, 1981, by the United States District Court for the District of Columbia in the civil action known as *Luevano* v. *Horner* and numbered as No. 79–271, which were not removed from coverage of the Professional and Administrative Career Examination (PACE) prior to the effective date of the consent decree, and which are to be filled, under the conditions described below, by appointment of individuals other than those who at the time of such appointment already have competitive status in the Federal civil service. When a Federal agency needs to fill a PAC position that was not removed from PACE coverage before the consent decree became effective, and the agency has made maximum use of priority placement sources and has given appropriate consideration to available and qualified status applicants, then OPM may authorize the agency to make a new appointment under this paragraph. Such appointments shall be authorized and made pursuant to such Schedule B requirements for PAC positions as shall be prescribed in the Federal Personnel Manual. Terms of use of this appointment authority shall be established by an appointment authority agreement to be executed for each position excepted from the competitive service pursuant to this authority. An incumbent of a Schedule B PAC position may be appointed to a competitive position upon a demonstration that the employee has met qualifications on the basis of an examination of the employee's experience and such other measures as may be prescribed for such position in civil service laws, rules, and regulations, including the Federal Personnel Manual.

Section 213.3203 Executive Office of the President

(a) [Reserved]

(b) *Office of the Special Representative for Trade Negotiations.* (1) Seventeen positions of economist at grades GS–12 through GS–15.

Section 213.3204 Department of State

(a)–(c) [Reserved]

(d) Twelve positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) Four Physical Science Administration Officer positions at GS–11 and GS–12 under the Bureau of Oceans and International Environmental and Scientific Affairs' Science, Engineering and Diplomacy Fellowship Program. Employment under this authority is not to exceed 1 year.

(f) Scientific, professional, and technical positions at grades GS–12 to GS–15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

Section 213.3205 Department of the Treasury

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b) Not to exceed 10 positions engaged in functions mandated by Public Law 99–190, the duties of which require expertise and knowledge gained as a present or former employee of the Synthetic Fuels Corporation, as an employee of any organization carrying out projects or contracts for the Corporation, or as an employee of a Government agency involved in the Synthetic Fuels Program. Appointments under this authority may not exceed 4 years.

(c) Not to exceed two positions of Accountant (Tax Specialist) at grades GS–13 and above to serve as specialists on the accounting analysis and treatment of corporation taxes. Employment under this paragraph shall not exceed a period of 18 months in any individual case.

(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed (1) a total of 4 years or (2) 120 days following completion of the service required for conversion under Executive Order 11203, whichever occurs first.

Section 213.3206 Department of Defense

(a) *Office of the Secretary.* (1) [Reserved]

(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)–(4) [Reserved]

(5) Four Net Assessment Analysts.

(b) *Interdepartmental activities.* (1) Five positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(c) *National Defense University.* (1) Twenty-one positions of professor, GS–13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in 1-, 2-, or 3-year increments indefinitely thereafter.

(d) *General.* (1) One position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command.

(e) *Office of the Inspector General.* (1) Positions of Criminal Investigator, GS–1811–5/15.

(f) *Department of Defense Polygraph Institute, Fort McClellan, Alabama.* (1) One Director, GM–15.

Section 213.3207 Department of the Army

(a) *U.S. Army Command and General Staff College.* (1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

(b) *Brooke Army Medical Center, Fort Sam Houston, Texas.*

(1) Two Medical Officer (Surgery) positions, GS–12, in the Clinical Division, U.S. Army Institute of Surgical Research, whose incumbents are enrolled in medical school surgical residency programs. Employment under this authority shall not exceed 12 months.

Section 213.3208 Department of the Navy

(a) *Naval Underwater Systems Center, New London, Connecticut.* (1) One position of oceanographer, grade GS–14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) One Director and four Research Psychologists at the professor or GS–15 level in the Defense Personnel Security Research and Education Center.

Section 213.3209 Department of the Air Force

(a) Not to exceed four interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1, 2, or 3 years indefinitely thereafter.

(b) [Reserved]

(c) One Director of Instruction and 14 civilian Instructors at the Defense Institute of Security Assistance Management, Wright-Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period which may be followed by an appointment of indefinite duration.

(d) Seven positions of professor or associate professor at the Air University, Maxwell Air Force Base, Ala., for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in 1-, 2-, or 3-year increments indefinitely thereafter.

Section 213.3210 Department of Justice

(a) Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed between the Department and OPM.

(b) Positions of Port Receptionist and Supervisory Port Receptionist, Immigration and Naturalization Service.

(c) Not to exceed 200 positions at grades GS–7 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) Until September 30, 1986, positions, other than those providing routine clerical and administrative support, on the staff of the offices of United States Trustees. Terms of service under this authority shall be established in accordance with provisions of the Bankruptcy Reform Act of 1978 and subsequent applicable legislation.

Section 213.3213 Department of Agriculture

(a) *Office of International Cooperation and Development.*

(1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 2 years on a single project for any individual. No more than 20 new appointments may be made under this authority in any 12-month period.

(b) *General.* (1) Temporary positions of professional Research Scientists, GS–15 or below, in the Agricultural Research Service and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not exceed 2 years and may be extended for up to two additional years.

Section 213.3214 Department of Commerce

(a) *Bureau of the Census.* (1) [Reserved]

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5 through GS–12.

(b) [Reserved]

(c) *Minority Business Development Agency.* (1) One position of minority business opportunity specialist at grades GS–9 through GS–15. This authority may not be used for new appointments after December 31, 1977.

(d) *National Telecommunications and Information Administration.* (1) Not to exceed 10 positions of Telecommunications Policy Analysts, grades GS–11 through 15. Employment under this authority may not exceed 2 years.

Section 213.3215 Department of Labor

(a) Positions of Chairman and Member, Wage Appeals Board.

(b) *Office of the Inspector General.* (1) Not to exceed 110 positions of Criminal Investigator (Special Agent), GS–1811–5/15, in the Office of Labor Racketeering.

Section 213.3216 Department of Health and Human Services

(a) *Public Health Service.* (1) Not to exceed 68 positions at GS–11 and below

on the Health and Nutrition Examination Survey teams of the National Center for Health Statistics.

(2) One Public Health Education Specialist, GS–1725–15, in the Centers for Disease Control, Atlanta, Georgia.

(b)–(c) [Reserved]

(d) *National Library of Medicine.* (1) Ten positions of Librarian, GS–7, the incumbents of which will be trainees in the Library Associate Training Program in Medical Librarianship and Biomedical Communications. Employment under this authority is not to exceed 1 year.

Section 213.3217 Department of Education

(a) Seventy-five positions, not in excess of GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in midcareer development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of OPM, be extended for an additional period of 1 year.

Section 213.3227 Veterans Administration

(a) Not to exceed 800 principal investigatory, scientific, professional and technical positions at grades GS–11 and above in the medical research program. Employment under this authority may not exceed 7 years for any individual.

Section 213.3228 U.S. Information Agency

(a) *Voice of America.* (1) Not to exceed 150 positions at grades GS–15 and below in the Cuba Service. Appointments may not be made under this authority to administrative, clerical, and technical support positions.

(b) Positions of English Language Radio Broadcast Intern, GS–1001–5/7/9. Employment is not to exceed 2 years for any intern.

Section 213.3231 Department of Energy

(a) Twenty Exceptions and Appeals Analyst positions at grades GS–7 through 11, when filled by persons selected under DOE's fellowship program in its Office of Hearings and Appeals, Washington, D.C. Appointments under this authority shall not exceed 3 years.

Section 213.3234 Federal Trade Commission

(a) Positions filled under the Economic Fellows Program. No more than five new appointments may be made under this authority in any fiscal year. Service of any individual Fellow may not exceed 4 years.

Section 213.3237 General Services Administration

(a) One position of Deputy Director of Network Services.

Section 213.3242 Export-Import Bank of the U.S.

(a) One position of Food Service Worker WG–7804–3/4/5, in the Office of the President and Chairman.

Section 213.3248 National Aeronautics and Space Administration

(a) Not to exceed 40 positions of Command Pilot, Pilot and Mission Specialist candidates at grades GS–7 through 15 in the Space Shuttle Astronaut program. Employment under this authority may not exceed 3 years.

Section 213.3254 Federal Home Loan Bank Board

(a) Positions of Accounting Policy Analyst, GS–13/14/15, in the Office of Examinations and Supervision filled in connection with a fellowship program. Appointments under this authority may not exceed 2 years. No more than three new appointments may be made under this authority during any consecutive 12-month period.

(b) Up to 569 positions at GS–15 and below in the Federal Home Loan Bank Board engaged in exploring methods to promote stability in the thrift industry, restore the industry to profitability, and protect individual savers. No additional appointments may be made under this authority after September 30, 1990.

Section 213.3257 National Credit Union Administration

(a) *Central Liquidity Facility.* (1) All managerial and supervisory positions at pay levels greater than the equivalent of GS–13.

Section 213.3259 ACTION

(a) *Office of Domestic and Anti-Poverty Operations.* (1) Not to exceed 25 positions of Program Specialist at grades GS–9 through GS–15.

(b) *Office of Voluntary Liaison.* (1) Three positions of Program Specialist at grades GS–7 through GS–15.

Section 213.3264 U. S. Arms Control and Disarmament Agency

(a) Twenty-five scientific, professional, and technical positions at grades GS–12 through GS–15 when filled by persons having special qualifications in the fields of foreign policy, foreign affairs, arms control, and related fields. Total employment under this authority may not exceed 4 years.

Section 213.3272 Administrative Office of the U. S. Courts

(a) Not to exceed 18 positions of Federal Probation System Administrator in the Division of Probation, when filled by Federal Probation Officers and/or Pretrial Services Officers on active service in the U.S. Courts.

(b) [Reserved]

(c) Six positions of Clerks Liaison Officer in the Division of Clerks of Court.

Section 213.3274 Smithsonian Institution

(a) *National Zoological Park.* (1) Four positions of Veterinary Intern, GS–8/9/11. Employment under this authority is not to exceed 36 months.

(b) *Freer Gallery of Art.* (1) Not to exceed four positions of Oriental Art Restoration Specialist at grades GS–9 through GS–15.

Section 213.3276 Appalachian Regional Commission

(a) Two Program Coordinators.

Section 213.3282 National Foundation on the Arts and the Humanities

(a) [Reserved]

(b) *National Endowment for the Humanities.* (1) Until September 30, 1990, Humanist Administrator, Reference Materials Programs, Division of Research Programs.

(2) Until September 30, 1990, Humanist Administrator (Assistant Director), Humanities Projects in Higher Education Program, Division of Education Programs.

(3) Until September 30, 1990, Deputy Director, Division of Education Programs.

(4) Until September 30, 1990, Director, Division of Research Grants.

(5) Until September 30, 1990, one position of Director, GS–1701–15, one position of Deputy Director, GS–1701–14, and six positions of Humanist

Administrator, GS–1701–13, Division of State Programs.

(6) Until September 30, 1990, one Director and one Deputy Director, Division of Fellows and Seminars.

(7) Until September 30, 1990, one Humanist Administrator, Fellowships for College Teachers, Division of Fellowships.

(8) Until September 30, 1990, four positions of Humanist Administrator, Media Program, Division of General Programs.

(9) Until September 30, 1990, one position of Humanist Administrator, Humanities Projects in Higher Education, Division of Education Programs.

(10) Until September 30, 1990, one position of Assistant Director for the Elementary and Secondary Education Program, Division of Education Programs.

(11) Until September 30, 1990, one position of Assistant Director for the Museums and Historical Organizations Program, Division of General Programs.

(12) Until September 30, 1990, three positions of Humanist Administrator, Museums and Historical Organizations Program, Division of General Programs.

(13) Until September 30, 1990, two positions of Humanist Administrator, Elementary and Secondary Education Program, Division of Education Programs.

(14) Until September 30, 1990, Director of General Programs.

(15) Until September 30, 1990, one Assistant to the Director, Division of General Programs.

(16) Until September 30, 1990, one Humanist Administrator, Younger Scholars Programs, Division of Fellowships and Seminars.

(17) Until September 30, 1990, one Humanist Administrator, Humanities Programs for Adults, Division of General Programs.

(18) Until September 30, 1990, one position of Director, Division of Education Programs.

(19) Until September 30, 1990, one Humanist Administrator (Assistant Director), Texts Programs, Division of Research Programs.

(20) Until September 30, 1990, one Humanist Administrator, Centers for Advanced Study, Division of Research Programs.

(21) Until September 30, 1990, one Challenge Grants Officer.

(22) Until September 30, 1990, one Assistant Director, Media Program, Division of General Programs.

(23) Until September 30, 1990, one position of Humanist Administrator, Publications Program, Division of Research Grants.

(24) Until September 30, 1990, one Deputy Director, Division of Research Grants.

(25) Until September 30, 1990, one Humanist Administrator, Summer Seminars for College Teachers, Division of Fellowships and Seminars.

(26) Until September 30, 1990, two positions of Humanist Administrator, Humanities Libraries Projects, Division of General Programs.

(27) Until September 30, 1990, one position of Humanities Projects Assessment Officer, GM–15, Office of the Assistant Chairman for Programs.

(28) Until September 30, 1990, one position of Humanist Administrator, Humanities Programs for Adults, Division of General Programs, GS–14.

(29) Until September 30, 1990, one position of Humanist Administrator, GS–1701–14, in the Interpretive Research Programs, Division of Research Programs.

(30) Until September 30, 1990, one Humanist Administrator, Office of Challenge Grants.

(31)–(32) [Reserved].

(33) Until September 30, 1990, one Assistant Director, Special Projects Program, GM–1701–14, Division of General Programs.

(34) Until September 30, 1990, one Humanist Administrator, GS–1701–12, Humanities Projects in Higher Education Program, Division of Education Programs.

(35) Until September 30, 1990, two Humanist Administrators, Humanities Projects in Higher Education Program, Division of Education Programs.

(36) Until September 30, 1990, three Humanist Administrators, Humanities Projects in Higher Education Program, Division of Education Programs.

(37) Until September 30, 1990, one Humanist Administrator, Summer Seminars for Secondary School Teachers, Division of Fellowships and Seminars.

(38) Until September 30, 1990, one Humanist Administrator, Summer Stipends, Division of Fellowships and Seminars.

(39) Until September 30, 1990, one Humanist Administrator, Travel to Collections, Division of Fellowships and Seminars.

(40) Until September 30, 1990, one Humanist Administrator, Translation Program, Reference Works Program, Division of Research Programs.

(41) Until September 30, 1990, one Humanist Administrator, Editions Program, Reference Works Program, Division of Research Programs.

(42) [Reserved]

(43) Until September 30, 1990, one Humanist Administrator, Foundations of American Society Program, Division of Fellowships and Seminars.

(44) Until September 30, 1990, one Humanist Administrator, Humanities Projects in Museums and Historical Organizations, Division of General Programs.

(45) Until September 30, 1990, two Humanist Administrators, Office of Preservation.

(46) Until September 30, 1990, one Director, Office of Preservation.

(47) Until September 30, 1990, one Humanist Administrator (Program Officer), Regrant Programs, Division of Research Programs.

(48) Until September 30, 1990, one Director, Office of Planning and Budget.

(49) Until September 30, 1990, one Humanist Administrator, Tools Program, Reference Materials Program, Division of Research Programs.

(50) Until September 30, 1990, one Humanist Administrator, Access Program, Reference Materials Program, Division of Research Programs.

(51) Until September 30, 1990, one Humanist Administrator, Project Research, Interpretive Research Program, Division of Research Programs.

(52) Until September 30, 1990, one Humanist Administrator, Humanities, Science, and Technology Program, Interpretive Research Program, Division of Research Programs.

Section 213.3285 Pennsylvania Avenue Development Corporation

(a) One position of Civil Engineer (Construction Manager).

Section 213.3291 Office of Personnel Management

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years, and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) Twelve positions of faculty members at grades GS–13 through 15, at the Federal Executive Institute. Initial appointments under this authority may be made for any period up to 3 years and may be extended in 1-, 2-, or 3-year increments indefinitely thereafter.

Section 13.3294 Department of Transportation

(a) *Federal Railroad Administration.*
(1) Regional Director of Railroad Safety, Fort Worth, Texas.

Schedule C

Section 213.3303 Executive Office of the President

Council of Economic Advisors
CEA 4—Secretary to the Council Member.
CEA 5—Secretary to the Council Member.
Council on Environmental Quality CEQ 2—Executive Assistant to a Council Member.
Office of Management and Budget
OMB 8—Secretary to the Deputy Director.
OMB 11—Secretary to the Associate Director, National Security and International Affairs.
OMB 12—Administrative Assistant to the Associate Director, Human Resources, Veterans, and Labor.
OMB 16—Secretary to the Associate Director for Management.
OMB 21—Confidential Assistant to the Director.
OMB 23—Staff Assistant to the Administrator, Office of Information and Regulatory Affairs.
OMB 25—Legislative Assistant to the Assistant Director for Legislative Affairs.
OMB 31—Executive Secretary to the Executive Associate Director for Budget and Legislation.
OMB 33—Executive Assistant to the Deputy Director.
OMB 38—Confidential Secretary to the General Counsel.
OMB 44—Secretary to the Deputy Director.
OMB 46—Legislative Assistant to the Assistant Director for Legislative Affairs.
OMB 46—Legislative Assistant to the Assistant Director for Legislative Affairs.
OMB 52—Secretary to the Director.
OMB 56—Secretary to the Director.
OMB 57—Confidential Secretary to the Associate Director for Natural Resources, Energy and Science.
OMB 61—Secretary to the Deputy Director.
OMB 62—Administrative Assistant to the Executive Assistant to the Director.
OMB 63—Staff Assistant to the Associate Director for Management.
OMB 64—Writer to the Director.
Office of Science and Technology Policy
OSTP 1—Confidential Secretary to the Director.
President's Commission on Executive Exchange
PCEE 1—Confidential Assistant to the Executive Director.
PCEE 2—Special Assistant to the Executive Director.
PCEE 4—Secretary (Typing) to the Executive Director.
PCEE 5—Public Affairs Specialist to the Executive Director.
PCEE 6—Staff Assistant (Typing) to the Executive Director.
PCEE 7—Staff Assistant (Typing) to the Executive Director.
Office of the United States Trade Representative
USTR 10—Confidential Assistant to the United States Trade Representative.
USTR 13—Confidential Assistant to the General Counsel.
USTR 14—Confidential Secretary to the United States Trade Representative.
USTR 20—Deputy Assistant United States Trade Representative.
USTR 21—Confidential Assistant to the Deputy United States Trade Representative.
USTR 24—Public Affairs Specialist to the Assistant United States Trade Representative for Public, Private and Intergovernmental Affairs.
USTR 25—Confidential Secretary to the General Counsel.
USTR 26—Executive Assistant to the Deputy United States Trade Representative.
USTR 27—Public Affairs Specialist to the Assistant United States Trade Representative for Public Affairs.
USTR 28—Congressional Affairs Officer to the Assistant United States Trade Representative for Congressional Affairs.
USTR 29—Director, Office of Private Sector Liaison, to the Assistant United States Trade Representative for Public and Intergovernmental Affairs.
USTR 30—Confidential Assistant to the Deputy United States Trade Representative—Geneva.

Section 213.3304 Department of State

ST 8—Secretary (Steno) to the Secretary.
ST 38—Staff Assistant to the Under Secretary.
ST 59—Secretary (Steno) to the Under Secretary for Economic Affairs.
ST 67—Secretary (Steno) to the Director, Bureau of Politico-Military Affairs.
ST 79—Special Assistant to the United States Representative to the United Nations.
ST 81—Secretary (Steno) to the Assistant Secretary, Bureau of Near Eastern and South Asian Affairs.
ST 83—Assistant Chief of Protocol to the Chief of Protocol.
ST 90—Foreign Affairs Officer to the Chief of Protocol.
ST 91—Secretary (Steno) to the Assistant Secretary, Bureau of East Asian and Pacific Affairs.
ST 100—Secretary (Steno) to the United States Representative to the United Nations.
ST 102—Special Assistant to the Under Secretary.
ST 106—Assistant Manager, President's Guest House, to the Chief of Protocol.
ST 109—Secretary (Steno) to the Director, Management Operations.
ST 116—Special Assistant to the Counselor.
ST 117—Confidential Clerk to the Secretary.
ST 120—Special Assistant to the Spokesman, Office of the Spokesman.
ST 122—Staff Assistant to the Under Secretary for Management.
ST 124—Special Assistant to the Assistant Secretary, Bureau of Inter-American Affairs.
ST 128—Legislative Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs.
ST 132—Secretary (Typing) to the Assistant Secretary, Bureau of International Organizational Affairs.
ST 134—Secretary (Steno) to the Deputy Secretary.
ST 137—Foreign Affairs Officer to the Assistant Secretary, Policy Planning Staff.
ST 156—Member, Policy Planning Staff to the Chairman, Policy Planning Council.
ST 161—Secretary (Steno) to the Under Secretary for Management.
ST 162—Secretary (Steno) to the Assistant Secretary, Bureau of Consular Affairs.
ST 164—General Manager, President's Guest House.
ST 168—Staff Assistant to the Legal Adviser.
ST 173—Special Assistant to the Under Secretary for Management.
ST 174—Public Affairs Specialist to the Deputy Assistant Secretary for Public Affairs.
ST 175—Congressional Relations Officer to the Principal Deputy Assistant Secretary for Congressional Relations.
ST 177—Special Assistant to the Chairman, International Joint Commission.
ST 178—Secretary (Steno) to the Assistant Secretary for International Narcotics Matters.
ST 179—Congressional Relations Officer to the Assistant Secretary, Office of Congressional Relations.
ST 181—Director, Office of Intergovernmental and Public Liaison to the Assistant Secretary

for Legislative and Governmental Affairs.
ST 182—Special Assistant to the Assistant Secretary, Bureau of Consular Affairs.
ST 183—Public Affairs Advisor to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs.
ST 184—Special Assistant to the Assistant Secretary, Office of African Affairs.
ST 187—Secretary (Steno) to the Chairman, International Joint Commission.
ST 188—Staff Assistant to the Assistant Secretary for International Narcotics Matters.
ST 190—Special Assistant to the Ambassador-at-Large and Special Advisor to the Secretary.
ST 191—Secretary (Steno) to the Executive Secretary/Special Assistant to the Secretary.
ST 192—Staff Assistant to the Deputy Secretary of State.
ST 195—Staff Assistant to the Assistant Secretary for Congressional Relations.
ST 200—Staff Assistant to the Deputy Secretary of State.
ST 201—Staff Assistant to the Ambassador on Space and Defense Arms and Head of the U.S. Delegation to Geneva.
ST 202—Special Assistant to the Ambassador-at-Large.
ST 203—Special Assistant to the Counselor.
ST 208—Foreign Affairs Officer to the Assistant Secretary, Bureau of International Organization Affairs.
ST 211—Protocol Officer (Visits) to the Chief of Protocol.
ST 213—Special Assistant to the Assistant Secretary for Human Rights and Humanitarian Affairs.
ST 217—Deputy Coordinator to the Coordinator for Public Diplomacy for Latin America and the Caribbean.
ST 221—Special Assistant to the Assistant Secretary for East Asian and Pacific Affairs.
ST 222—Special Assistant to the Assistant Secretary, Bureau of East Asian and Pacific Affairs.
ST 224—Special Assistant to the Assistant Secretary, Bureau of East Asian and Pacific Affairs.
ST 226—Special Assistant to the Assistant Secretary, Bureau of Near Eastern and South Asian Affairs.
ST 229—Special Assistant to the Coordinator for Public Diplomacy for Latin America and the Caribbean.
ST 235—Protocol Officer (Ceremonials) to the Chief of Protocol.
ST 238—Staff Assistant to the Ambassador on Space and Defense Arms and Head of the U.S. Delegation to Geneva.
ST 239—Protocol Clerk to the Chief of Protocol.
ST 242—Special Assistant to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs.
ST 242—Protocol Assistant to the Chief of Protocol.
ST 244—Special Assistant to the Assistant Secretary, Bureau of Inter-American Affairs.
ST 245—Foreign Affairs Officer to the Assistant Secretary, Bureau of International Organization Affairs.
ST 246—Secretary (Steno) to the Ambassador at Large for Cultural Affairs.
ST 247—Special Assistant to the Assistant Secretary, Bureau of Inter-American Affairs.
ST 248—Special Assistant to the Deputy Assistant Secretary for International Social and Humanitarian Affairs, Bureau of International Organization Affairs.
ST 249—Staff Assistant to the Deputy Secretary.
ST 250—Public Information Officer to the Deputy Assistant Secretary for International Social and Humanitarian Affairs, Bureau of International Organization Affairs.
ST 251—Special Assistant to the Deputy Assistant Secretary for Policy and Counterterrorism, Bureau of Diplomatic Security.
ST 252—Protocol Officer (Visits) to the Chief of Protocol.
ST 254—Special Assistant to the Under Secretary for Security Assistance, Science, and Technology.
ST 255—Secretary (Steno) to the Deputy Assistant Secretary for Policy and Counterterrorism, Bureau of Diplomatic Security.
ST 256—Policy and Press Advisor to the U.S. Permanent Representative to the U.S. Mission to the Organization of American States.

Section 213.3305 Department of the Treasury

TREA 27—Executive Assistant to the Secretary.
TREA 28—Special Assistant to the Director of the Mint.
TREA 47—Special Assistant to the Assistant Secretary for Legislative Affairs.
TREA 61—Special Assistant to the Assistant Secretary for Public Affairs and Public Liaison.
TREA 74—Confidential Assistant to the Assistant Secretary for Policy Planning and Communications.
TREA 75—Public Affairs Specialist to the Assistant Secretary for Public Affairs and Public Liaison.
TREA 89—Special Assistant to the Assistant Secretary for Legislative Affairs.
TREA 91—Director of Travel and Special Events to the Director, Special Operations Division.
TREA 92—Director, Consumer Affairs, to the Assistant Secretary for Business and Consumer Affairs.
TREA 94—Executive Assistant to the Commissioner of Customs.
TREA 99—Staff Assistant to the Director, Office of Revenue Sharing.
TREA 100—Special Assistant to the Assistant Secretary for Management.
TREA 101—Director, Office of Business Affairs, to the Assistant Secretary for Business and Consumer Affairs.
TREA 102—Staff Assistant to the Commissioner of Customs.
TREA 112—Assistant to the Director, Office of Revenue Sharing.
TREA 113—Executive Assistant to the Special Assistant to the Commissioner of Customs.
TREA 115—Staff Assistant to the Deputy Assistant Secretary for Financial Systems.
TREA 120—Special Assistant to the Assistant Secretary for Policy, Planning and Communications.
TREA 122—Public Affairs Specialist to the Assistant Secretary for Policy, Planning and Communications.
TREA 123—Public Affairs Specialist to the Treasurer.
TREA 125—Congressional Liaison Specialist to the Commissioner of Customs.
TREA 126—Staff Assistant to the Director of the Mint.
TREA 127—Special Assistant to the Assistant Secretary for Management.
TREA 131—Staff Assistant to the Deputy General Counsel.
TREA 132—Deputy Assistant Secretary for Public Liaison to the Assistant Secretary for Public Affairs and Public Liaison.
TREA 139—Director of Scheduling to the Assistant Secretary for Public Affairs and Public Liaison.
TREA 140—Staff Assistant to the Assistant Secretary for Management.
TREA 141—Staff Assistant to the Deputy Assistant Secretary for Public Affairs and Public Liaison.
TREA 144—Staff Assistant to the

Deputy Assistant Secretary for Policy, Planning and Communications.
TREA 147—Travel Assistant to the Deputy Assistant Secretary for Administration.
TREA 148—Director, Special Operations Division, to the Deputy Assistant Secretary for Administration.
TREA 150—Special Assistant to the Deputy Assistant Secretary for Developing Nations, Office of the Assistant Secretary for International Affairs.
TREA 152—Confidential Assistant to the Deputy Assistant Secretary for Public Liaison.
TREA 153—Legislative Specialist to the Assistant Secretary for Legislative Affairs.
TREA 154—Staff Assistant to the Assistant Secretary for Enforcement and Operations.
TREA 156—Special Assistant to the Assistant Secretary for Management.
TREA 157—Congressional Liaison Officer to the Commissioner of Customs.
TREA 158—Confidential Assistant to the Assistant Secretary for Public Affairs and Public Liaison.
TREA 159—Special Assistant to the Deputy Assistant Secretary for Administration.
TREA 160—Confidential Secretary to the Secretary.
TREA 161—Deputy Assistant Secretary for Legislative Affairs.
TREA 163—Staff Assistant to the Assistant Secretary for Management.
TREA 164—Staff Assistant to the Deputy Assistant Secretary for Financial Institutions Policy.
TREA 165—Special Assistant to the Deputy Assistant Secretary for Public Liaison.
TREA 166—Travel Assistant to the Deputy Assistant Secretary for Administration.
TREA 168—Staff Assistant to the Director of the Mint.
TREA 169—Confidential Assistant to the Deputy Assistant Secretary for Administration.
TREA 170—Assistant Director for Travel and Special Event Services to the Director, Special Operations Division.

Section 213.3306 Department of Defense

DOD 3—Private Secretary to the Secretary.
DOD 5—Private Secretary to the Deputy Secretary.
DOD 8—Private Secretary to the Deputy Under Secretary for Research and Engineering (Tactical Warfare Programs).
DOD 9—Private Secretary to the Deputy Under Secretary for Research and Engineering (Strategic and Theater Nuclear Forces).
DOD 10—Private Secretary to the Deputy Under Secretary for Research and Engineering (Research and Advanced Technology).
DOD 13—Private Secretary to the Assistant Secretary (Force Management and Personnel).
DOD 14—Private Secretary to the Assistant Secretary for International Security Affairs.
DOD 18—Private Secretary to the Assistant Secretary (Comptroller).
DOD 19—Personal and Confidential Assistant to the Director, Program Analysis and Evaluation.
DOD 20—Private Secretary to the General Counsel.
DOD 22—Private and Confidential Secretary to the Assistant to the Secretary (Atomic Energy).
DOD 23—Private Secretary to the Military Assistant to the Secretary.
DOD 30—Secretary (Steno) to the Defense Advisor to US NATO.
DOD 31—Private Secretary to the Assistant Secretary for Legislative Affairs.
DOD 33—Personal Secretary to the Deputy Secretary.
DOD 34—Private Secretary to the Principal Deputy Assistant Secretary of Defense for International Security Affairs.
DOD 35—Confidential Assistant to the Executive Secretary.
DOD 37—Assistant to the Secretary for Personnel Security.
DOD 54—Private Secretary to the Judge, U.S. Court of Military Appeals.
DOD 55—Private Secretary to the Chief Judge, U.S. Court of Military Appeals.
DOD 56—Private Secretary to the Judge, U.S. Court of Military Appeals.
DOD 62—Management Officer to the Chairman, President's Intelligence Oversight Board.
DOD 66—Private Secretary to the Physician to the President, White House Support Group.
DOD 73—Private Secretary to the Assistant Secretary of Defense for Health Affairs.
DOD 75—Chauffeur to the Deputy Secretary.
DOD 89—Private Secretary to the Principal Deputy Assistant Secretary (Public Affairs).
DOD 101—Personal and Confidential Assistant to the Director of Net Assessment.
DOD 119—Private Secretary to the Principal Deputy Director, Program Analysis and Evaluation.
DOD 133—Public Affairs Specialist to the Assistant Secretary (Public Affairs).
DOD 148—Private Secretary to the Deputy Under Secretary (Policy).
DOD 171—Special Assistant to the Deputy Assistant Secretary (Reserve Affairs).
DOD 174—Private Secretary to the Under Secretary for Policy.
DOD 175—Personal and Confidential Assistant to the Judge, U. S. Court of Military Appeals.
DOD 187—Special Assistant for African Affairs to the Deputy Assistant Secretary for International Security Affairs.
DOD 194—Private Secretary to the Assistant Secretary (International Security Policy).
DOD 199—Administrative Assistant to the Associate Director, Presidential Personnel Office.
DOD 205—Personal and Confidential Assistant to the Judge, U. S. Court of Military Appeals.
DOD 209—White House Director of Television Services to the Assistant to the President/Director of Support Services.
DOD 212—Private Secretary to the Deputy Under Secretary, Research and Engineering (International Programs and Technology).
DOD 216—Private Secretary to the Principal Deputy Assistant Secretary for International Security Policy.
DOD 217—Private Secretary to the Assistant Secretary (Command, Control, Communications and Intelligence).
DOD 220—Assistant to the Director for Emergency Planning.
DOD 226—Special Assistant to the Assistant Secretary (Health Affairs).
DOD 227—Private Secretary to the Assistant Secretary for Research and Technology/Director, Defense Advanced Research Projects Agency.
DOD 236—Special Assistant to the Assistant Secretary for Public Affairs.
DOD 250—Speechwriter to the Assistant Secretary for Public Affairs.
DOD 251—Assistant to the Deputy Assistant Secretary for East Asian and Pacific Affairs.
DOD 252—Confidential Assistant to the Secretary.

DOD 254—Special Assistant for Emergency Planning to the Assistant Secretary (Acquisition and Logistics).
DOD 255—Personal and Confidential Assistant to the Deputy Secretary.
DOD 259—Deputy Associate Director for Public Liaison to the Special Assistant to the President, White House Support Group.
DOD 261—Special Assistant for European Security and Political Affairs to the Deputy Assistant Secretary (European and NATO Policy).
DOD 262—Special Assistant to the Assistant Secretary (International Security Affairs).
DOD 263—Special Assistant to the Assistant Secretary for International Security Policy.
DOD 265—Special Assistant to the Deputy Assistant Secretary of Defense for East Asian and Pacific Affairs.
DOD 268—Private Secretary to the Senior Judge, U.S. Court of Military Appeals.
DOD 270—Private Secretary to the Director, Strategic Defense Initiative Organization.
DOD 272—Assistant for Policy Analysis to the Deputy Assistant Secretary (European and NATO Policy).
DOD 274—Security Coordinator to the Assistant to the President, White House Support Group.
DOD 275—Assistant for European Security Negotiations to the Deputy Assistant Secretary (Negotiations Policy).
DOD 276—Counselor and Director, Long-Range Policy, to the Deputy Assistant Secretary (Negotiations Policy).
DOD 279—Personal and Confidential Assistant to the Director, Operational Testing and Evaluation.
DOD 280—Staff Assistant to the Principal Deputy Assistant Secretary for Public Affairs.
DOD 282—Assistant for Multilateral Negotiations to the Deputy Assistant Secretary of Defense (Negotiations Policy).
DOD 283—Special Assistant to the Assistant Secretary for Public Affairs.
DOD 284—Special Assistant to the Director, Office of Civilian Health and Medical Programs of the Uniformed Services.
DOD 286—Special Assistant for East African Affairs to the Deputy Assistant Secretary for African Affairs.
DOD 287—Special Assistant for Strategic Defense and Space Arms Control Policy to the Deputy Assistant Secretary of Defense (Nuclear Forces and Arms Control Policy).
DOD 289—Special Assistant and Political/Military Counselor to the United States Ambassador to Austria.
DOD 290—Staff Assistant to the Assistant Secretary for Public Affairs.
DOD 291—Special Assistant for Technology Transfer Policy to the Deputy Under Secretary (Trade Security Policy).
DOD 292—Staff Assistant to the Secretary.
DOD 293—Special Assistant to the Principal Deputy Assistant Secretary (Force Management and Personnel).
DOD 294—Staff Specialist to the Deputy Director, Strategic Defense Initiative Organization.
DOD 295—Special Assistant to the Assistant Secretary (Force Management and Personnel).
DOD 296—Special Assistant to the Assistant Secretary for Legislative Affairs.
DOD 297—Staff Assistant to the Assistant Secretary for Legislative Affairs.
DOD 298—Confidential Assistant to the Under Secretary for Acquisition.
DOD 299—Family Program Coordinator to the Deputy Assistant Secretary (Family Support, Education, and Safety).
DOD 300—Special Assistant for Foreign Intelligence Programs to the Assistant Secretary (Command, Control, Communications, and Intelligence).
DOD 301—Personal and Confidential Assistant to the Assistant Secretary (Acquisition and Logistics).
DOD 302—Special Assistant for National Disaster Medical System to the Assistant Secretary for Health Affairs.
DOD 303—Special Assistant for Strategic Defense Initiative to the Assistant Secretary for Legislative Affairs.

Section 213.3307 Department of the Army

ARMY 1—Staff Assistant to the Secretary.
ARMY 2—Secretary (Steno) to the Under Secretary.
ARMY 3—Secretary (Steno) to the Assistant Secretary of the Army, Manpower and Reserve Affairs.
ARMY 5—Secretary (Steno) to the Assistant Secretary for Installations and Logistics.
ARMY 6—Secretary (Steno) to the Assistant Secretary, Research, Development and Acquisition.
ARMY 21—Secretary (Steno) to the General Counsel.
ARMY 38—Plans Coordinator to the Chief of Public Affairs.
ARMY 41—Assistant Director to the Chairman and Executive Director of the President's Foreign Intelligence Advisory Board.
ARMY 44—Executive Director to the Assistant Secretary, Reserve Affairs.
ARMY 51—Confidential Staff Assistant to the Deputy Director, Office of Private Sector Initiatives.
ARMY 55—Secretary (Steno) to the Assistant Secretary, Financial Management.

Section 213.3308 Department of the Navy

NAVY 2—Staff Assistant to the Secretary.
NAVY 5—Private Secretary to the Assistant Secretary for Financial Management.
NAVY 20—Special Assistant to the Military Assistant to the President.
NAVY 23—Special Assistant to the Military Assistant to the President.
NAVY 24—Private Secretary to the Assistant Secretary (Manpower and Reserve Affairs).
NAVY 25—Special Assistant to the Director, White House Military Office.
NAVY 27—Special Assistant for Emergency Planning to the Military Assistant to the President.
NAVY 31—Staff Assistant to the Under Secretary.
NAVY 32—Private Secretary to the Assistant Secretary for Shipbuilding and Logistics.
NAVY 35—Staff Assistant to the Deputy Assistant Secretary (Logistics).
NAVY 40—Special Assistant to the Deputy Under Secretary (Policy).

Section 213.3309 Department of the Air Force

AF 1—Secretary (Steno) to the Secretary.
AF 2—Secretary (Steno) to the Under Secretary.
AF 3—Secretary (Steno) to the Assistant Secretary for Manpower, Reserve Affairs and Installations.
AF 5—Secretary (Steno) to the Assistant Secretary for Research and Development Logistics.
AF 6—Secretary (Steno) to the Assistant Secretary (Financial Management).
AF 8—Secretary (Steno) to the General Counsel.

AF 17—Administrative Officer to the Assistant to the Vice President for National Security Affairs.
AF 18—Special Assistant to the Assistant to the Vice President for National Security Affairs.
AF 20—Secretary (Steno) to the Military Assistant to the President.
AF 21—Special Assistant to the Military Assistant to the President.
AF 22—Secretary (Steno) to the Assistant to the Vice President for National Security Affairs.
AF 26—Special Assistant to the Assistant Secretary for Manpower, Reserve Affairs and Installations.
AF 28—Special Assistant to the General Counsel.
AF 29—Staff Assistant to the Secretary.
AF 30—Special Assistant to the Assistant to the President/Director of the White House Military Office.
AF 31—Secretary (Steno) to the Assistant to the Vice President for National Security Affairs.
AF 32—Special Assistant to the Assistant Secretary (Financial Management).

Section 213.3310 Department of Justice

JUS 21—Confidential Assistant (Private Secretary) to the Assistant Attorney General, Antitrust Division.
JUS 25—Confidential Assistant (Private Secretary) to the Assistant Attorney General, Criminal Division.
JUS 35—Confidential Assistant (Private Secretary) to the Assistant Attorney General, Office of Legal Counsel.
JUS 70—Special Assistant to the Assistant Attorney General, Civil Rights Division.
JUS 83—Confidential Assistant to the Attorney General.
JUS 93—Secretary (Typing) to the Associate Attorney General.
JUS 100—Confidential Assistant to the Director of Congressional and Public Affairs, Immigration and Naturalization Service.
JUS 133—Secretary (Steno) to the Counselor to the Attorney General.
JUS 135—Staff Assistant to the Assistant Attorney General, Antitrust Division.
JUS 149—Counselor to the Assistant Attorney General, Land and Natural Resources Division.
JUS 152—Secretary and Confidential Assistant to the U.S. Attorney.
JUS 158—Secretary and Confidential Assistant to the U.S. Attorney.
JUS 162—Special Assistant to the Assistant Attorney General, Civil Rights Division.
JUS 167—Special Assistant to the Attorney General.
JUS 170—Special Assistant to the Attorney General.
JUS 176—Associate Director of Public Affairs to the Director, Office of Public Affairs.
JUS 190—Staff Assistant to the Assistant Attorney General, Office of Legal Policy.
JUS 200—Secretary and Confidential Assistant to the U.S. Attorney.
JUS 208—Confidential Assistant to the Director, Office of Public Affairs.
JUS 217—Special Assistant to the Director, Bureau of Justice Statistics.
JUS 219—Special Assistant to the Assistant Attorney General, Tax Division.
JUS 220—Special Assistant to the Assistant Attorney General, Tax Division.
JUS 221—Special Assistant to the Director, Bureau of Justice Statistics.
JUS 227—Staff Assistant to the Director, Community Relations Service.
JUS 228—Attorney-Advisor to the Director, Office of Justice Programs.
JUS 229—Special Assistant to the Director, National Institute of Justice.
JUS 230—Staff Assistant to the Commissioner, Immigration and Naturalization Service.
JUS 234—Confidential Assistant to the Assistant Attorney General for Justice Assistance.
JUS 238—Attorney-Advisor (Tax) to the Deputy Assistant Attorney General, Tax Division.
JUS 240—Special Assistant to the Deputy Assistant Attorney General, Civil Rights Division.
JUS 241—Confidential Assistant and Private Secretary to the Chairman, Foreign Claims Settlement Commission.
JUS 243—Staff Assistant to the Assistant Attorney General, Civil Rights Division.
JUS 244—Special Assistant to the Director, National Institute of Justice.
JUS 245—Attorney-Advisor to the Assistant Attorney General, Land and Natural Resources Division.
JUS 246—Special Assistant to the Deputy Assistant Attorney General, Office of Justice Assistance, Research and Statistics.
JUS 247—Special Assistant to the Commissioner, Immigration and Naturalization Service.
JUS 248—Missing Children Program Coordinator to the Administrator, Office of Juvenile Justice and Delinquency Prevention.
JUS 249—Staff Assistant to the Attorney General.
JUS 251—Confidential Assistant to the Special Assistant to the Attorney General for Cabinet Affairs.
JUS 253—Special Assistant to the Director, Office of Public Affairs.
JUS 258—Executive Assistant to the Administrator, Office of Juvenile Justice and Delinquency Prevention.
JUS 262—Confidential Assistant to the Director, Bureau of Justice Statistics.
JUS 264—Confidential Assistant to the Deputy Assistant Attorney General, Antitrust Division.
JUS 266—Public Affairs Specialist to the Deputy Director, Office of Public Affairs.
JUS 268—Attorney-Advisor (General) to the Assistant Attorney General, Antitrust Division.
JUS 269—Special Assistant to the Assistant Attorney General, Office of Legislative and Intergovernmental Affairs.
JUS 270—Special Assistant to the Assistant Attorney General, Civil Rights Division.
JUS 271—Confidential Assistant to the Assistant Attorney General, Office of Legal Policy.
JUS 272—Attorney-Advisor to the Director, Office of Regulatory and Legislative Affairs.
JUS 275—Deputy Assistant Attorney General, Office of Legal Policy.
JUS 277—Staff Assistant to the Assistant Attorney General/ Chief of Staff.
JUS 279—Confidential Assistant to the Deputy Assistant Attorney General, Office of Legislative Affairs.
JUS 281—Congressional and Public Liaison Officer to the Deputy Assistant Attorney General, Office of Justice Programs.
JUS 282—Assistant Director, Office of Liaison Services.
JUS 284—Senior Liaison Officer to the Administrator, Office of Juvenile Justice and Delinquency Prevention.
JUS 285—Confidential Assistant to the Deputy Assistant Attorney General, Office of Legislative Affairs.
JUS 286—Confidential Assistant to the Director, Office of Liaison Services.
JUS 287—Associate Deputy Attorney General.
JUS 288—Associate Deputy Attorney General.
JUS 291—Senior Liaison Officer to the Director, Office of Liaison Services.
JUS 292—Confidential Assistant to the Director, Office of Liaison Services.
JUS 294—Special Assistant to the Assistant Attorney General, Tax

Division.
JUS 296—Confidential Assistant to the Associate Deputy Attorney General.
JUS 298—Confidential Assistant to the Senior Special Assistant to the Attorney General.
JUS 300—Special Assistant to the Assistant Attorney General, Civil Rights Division.
JUS 301—Attorney-Advisor (Special Assistant) to the Principal Deputy Assistant Attorney General.
JUS 302—Staff Assistant (Speechwriter) to the Director, Office of Public Affairs.
JUS 303—Research Associate to the Director, Office of Public Affairs.
JUS 304—Confidential Assistant to the Director, Bureau of Justice Statistics.
JUS 306—Assistant Director, Office of Public Affairs.
JUS 307—Attorney-Advisor (Special Assistant) to the Assistant Attorney General, Civil Division.
JUS 308—Confidential Assistant to the Associate Deputy Attorney General.
JUS 309—Senior Liaison Officer to the Director, Office of Liaison Services.
JUS 310—Special Assistant to the Director, Bureau of Justice Assistance.
JUS 311—Special Assistant to the Director, Office of Public Affairs.
JUS 312—Assistant Director, Asylum Policy and Review Unit, Office of Legal Policy.
JUS 313—Executive Secretary to the Deputy Assistant Attorney General, Office of Justice Programs.
JUS 314—Senior Liaison Officer to the Director, Office of Liaison Services.
JUS 315—Confidential Assistant to the Director, National Obscenity Enforcement Unit, Criminal Division.
JUS 316—Social Science Program Manager to the Director, Office for Victims of Crime.
JUS 317—Attorney-Advisor (Counselor) to the Director, Asylum Policy and Review Unit, Office of Legal Policy.
JUS 318—Staff Assistant to the Assistant to the Attorney General and Chief of Staff.
JUS 319—Supervisory Attorney-Advisor (Associate Director), National Obscenity Enforcement Unit, Criminal Division.
JUS 320—Special Assistant to the Assistant Attorney General, Antitrust Division.
JUS 322—Confidential Assistant to the Director, Asylum Policy and Review Unit, Office of Legal Policy.
JUS 323—Confidential Assistant to the Assistant Attorney General, Office of Justice Programs.

Section 213.3311 Federal Judicial Center

FJC 2—Staff Assistant to the Director.

Section 213.3312 Department of the Interior

INT 3—Special Assistant to the Assistant to the Secretary and Director, External Affairs.
INT 18—Special Assistant to the Assistant Secretary, Water and Science.
INT 25—Steward to the Secretary.
INT 73—Staff Assistant to the Executive Assistant to the Secretary.
INT 92—Special Assistant to the Assistant Secretary for Policy, Budget and Administration.
INT 95—Director, Management Analysis Staff, to the Assistant Secretary for Policy, Budget and Administration.
INT 111—Staff Assistant to the Secretary.
INT 112—Confidential Assistant to the Assistant to the Secretary and Director, External Affairs.
INT 141—Executive Assistant to the Commissioner of Reclamation.
INT 143—Special Assistant to the Assistant Secretary, Fish, Wildlife and Parks.
INT 152—Special Assistant to the Deputy Director, National Park Service.
INT 155—Confidential Assistant to the Director, Office of Surface Mining and Reclamation.
INT 165—Special Assistant to the Director, Bureau of Land Management.
INT 170—Special Assistant to the Director, National Park Service.
INT 177—Special Assistant to the Director, Office of Surface Mining.
INT 194—Staff Assistant to the Counselor to the Secretary.
INT 195—Special Assistant to the Assistant Secretary, Territorial and International Affairs.
INT 196—Special Assistant to the Assistant Secretary, Territorial and International Affairs.
INT 201—Special Assistant to the Assistant Secretary, Territorial and International Affairs.
INT 202—Special Assistant to the Director, National Park Service.
INT 204—Special Assistant for Programs to the Counselor to the Secretary.
INT 205—Special Assistant to the Assistant Secretary, Indian Affairs.
INT 215—Confidential Assistant to the Executive Assistant to the Secretary.
INT 220—Special Assistant to the Assistant Secretary, Territorial and International Affairs.
INT 221—Confidential Assistant to the Director, Fish and Wildlife Service.
INT 225—Special Assistant to the Director, Office of Surface Mining.
INT 232—Staff Assistant to the Assistant to the Secretary and Director, External Affairs.
INT 235—Confidential Assistant to the Director, Fish and Wildlife Service.
INT 246—Public Affairs Specialist to the Director, Minerals Management Service.
INT 248—Congressional Liaison Officer to the Director, Bureau of Mines.
INT 250—Special Assistant to the Chief, Office of Congressional Liaison, Bureau of Mines.
INT 252—Staff Assistant to the Associate Director, Offshore Minerals Management, Minerals Management Service.
INT 254—Assistant to the Director, Minerals Management Service.
INT 256—Staff Assistant to the Associate Director, Bureau of Land Management.
INT 259—Special Assistant to the Congressional Liaison Officer, Bureau of Mines.
INT 262—Supervisory Public Affairs Specialist to the Director, Bureau of Land Management.
INT 264—Confidential Assistant to the Special Assistant (Field Representative) to the Secretary.
INT 265—Special Assistant to the Director, Bureau of Land Management.
INT 269—Secretary (Typing) to the Secretary.
INT 271—Special Assistant to the Director, Office of Policy Analysis.
INT 272—Special Assistant to the Assistant Secretary, Policy, Budget and Administration.
INT 274—Congressional Liaison Specialist to the Director, Office of Surface Mining and Reclamation.
INT 277—Staff Assistant to the Assistant Secretary for Indian Affairs.
INT 278—Special Assistant to the Assistant Secretary for Fish, Wildlife and Parks.
INT 279—Deputy Congressional Affairs Officer, Bureau of Land Management.
INT 281—Confidential Assistant to the Inspector General.
INT 282—Confidential Assistant to the Solicitor.
INT 283—Deputy Assistant Secretary for Water.

INT 285—Special Assistant to the Commissioner of Reclamation.
INT 286—Special Assistant to the Director, National Park Service.
INT 290—Congressional Affairs Officer to the Director, Bureau of Land Management.
INT 292—Special Assistant to the Director, Bureau of Land Management.
INT 293—Special Assistant to the Assistant Secretary for Indian Affairs.
INT 294—Special Assistant to the Director, Fish and Wildlife Service.
INT 295—Staff Assistant to the Director, U.S. Geological Survey.
INT 297—Confidential Assistant to the Deputy Solicitor.
INT 298—Special Assistant to the Director, National Park Service.
INT 299—Special Assistant to the Assistant Secretary for Territorial and International Affairs.
INT 300—Special Assistant to the Solicitor.
INT 302—Special Assistant to the Assistant Secretary for Water and Science.
INT 303—Special Assistant to the Commissioner of Reclamation.
INT 304—Special Assistant to the Assistant to the Secretary and Director, Office of Public Affairs.
INT 305—Special Assistant to the Assistant Director of External Affairs, Fish and Wildlife Service.
INT 306—Public Affairs Specialist to the Director, Office of Public Affairs, Bureau of Reclamation.
INT 307—Public Affairs Specialist (Speechwriter) to the Director, Office of Public Affairs, Bureau of Reclamation.
INT 308—Confidential Assistant to the Chief Operating Officer.
INT 309—Special Assistant to the Director, Fish and Wildlife Service.
INT 310—Staff Assistant to the Director, U.S. Geological Survey.

Section 213.3313 Department of Agriculture

AGR 3—Confidential Assistant to the Secretary.
AGR 8—Chauffeur to the Secretary.
AGR 12—Private Secretary to the Under Secretary for International Affairs and Commodity Programs.
AGR 13—Private Secretary to the Assistant Secretary for Food and Consumer Services.
AGR 24—Confidential Assistant to the Administrator, Farmers Home Administration.
AGR 26—Staff Assistant to the Administrator, Farmers Home Administration.
AGR 27—Private Secretary to the Administrator, Farmers Home Administration.
AGR 28—Member, Board of Directors, to the Secretary, Federal Crop Insurance Corporation.
AGR 29—Member, Board of Directors, to the Secretary, Federal Crop Insurance Corporation.
AGR 30—Private Secretary to the Manager, Federal Crop Insurance Corporation.
AGR 31—Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service.
AGR 32—Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service.
AGR 33—Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service.
AGR 34—Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service.
AGR 35—Private Secretary to the Administrator, Agricultural Stabilization and Conservation Service.
AGR 44—Private Secretary to the Assistant Secretary for Economics.
AGR 48—Confidential Assistant to the Administrator, Food and Nutrition Service.
AGR 56—Private Secretary to the Assistant Secretary for Governmental and Public Affairs.
AGR 61—Private Secretary to the Assistant Secretary for Natural Resources and Environment.
AGR 62—Confidential Assistant to the Under Secretary for Small Community and Rural Development.
AGR 74—Private Secretary to the Deputy Assistant Secretary for Food and Consumer Services.
AGR 77—Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 81—Confidential Assistant to the Administrator, Farmers Home Administration.
AGR 96—Confidential Assistant to the Assistant Secretary for Natural Resources and Environment.
AGR 102—Confidential Assistant to the Assistant Secretary for Food and Consumer Services.
AGR 103—Confidential Assistant to the Administrator, Foreign Agricultural Service.
AGR 105—Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 106—Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 109—Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 110—Confidential Assistant to the General Counsel.
AGR 111—Confidential Assistant to the Deputy Secretary.
AGR 114—Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 116—Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 118—Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 128—Private Secretary to the Administrator, Federal Grain Inspection Service.
AGR 129—Private Secretary to the Assistant Secretary, Marketing and Inspection Service.
AGR 130—Private Secretary to the Deputy Assistant Secretary, Marketing and Inspection Service.
AGR 136—Confidential Assistant to the Administrator, Food Safety and Inspection Service.
AGR 139—Confidential Assistant to the Executive Assistant to the Secretary.
AGR 141—Confidential Assistant to the Administrator, Food Safety and Inspection Service.
AGR 143—Confidential Assistant to the Administrator, Agricultural Marketing Service.
AGR 151—Executive Assistant to the Administrator, Agricultural Marketing Service.
AGR 154—Confidential Assistant to the Administrator, Food and Nutrition Service.
AGR 157—Confidential Assistant to the Administrator, Foreign Agricultural Service.
AGR 159—Special Representative to the Administrator, Foreign Agricultural Service.
AGR 160—Confidential Assistant to the Administrator, Foreign Agricultural Service.
AGR 164—Confidential Assistant to the Assistant Secretary for Science and Education.
AGR 169—Private Secretary to the Deputy Assistant Secretary for Economics.
AGR 175—Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 177—Special Assistant to the Director, Office of Transportation.
AGR 179—Private Secretary to the Deputy Assistant Secretary for Governmental and Public Affairs.
AGR 182—Assistant to the Administrator, Rural Electrification

Administration.
AGR 183—Confidential Assistant to the Administrator, Food and Nutrition Service.
AGR 184—Office Assistant (Receptionist) to the Executive Assistant to the Secretary.
AGR 186—Confidential Assistant to the Deputy Secretary.
AGR 187—Confidential Assistant to the Assistant Secretary for Food and Consumer Services.
AGR 188—Northeast Area Director to the Deputy Administrator, Office of State and County Operations.
AGR 189—Southeast Area Director to the Deputy Administrator, Office of State and County Operations.
AGR 190—Midwest Area Director to the Deputy Administrator, Office of State and County Operations.
AGR 191—Northwest Area Director to the Deputy Administrator, Office of State and County Operations.
AGR 192—Southwest Area Director to the Deputy Administrator, Office of State and County Operations.
AGR 196—Confidential Assistant to the Administrator, Office of International Cooperation and Development.
AGR 201—Confidential Assistant to the Executive Assistant to the Secretary.
AGR 203—Staff Assistant to the Executive Assistant.
AGR 204—Confidential Assistant to the Assistant Secretary for Science and Education.
AGR 205—Confidential Assistant to the Administrator, Food and Nutrition Service.
AGR 206—Director, Office of the Consumer Advisor to the Assistant Secretary for Food and Consumer Services.
AGR 207—Member, Board of Directors, to the Secretary, Federal Crop Insurance Corporation.
AGR 208—Member, Board of Directors, to the Secretary, Federal Crop Insurance Corporation.
AGR 209—Confidential Assistant to the Chief, Soil Conservation Service.
AGR 210—Staff Assistant to the Administrator, Office of International Cooperation and Development.
AGR 212—Special Assistant to the Assistant Secretary for Administration.
AGR 218—Special Assistant to the Deputy Assistant Secretary for Administration.
AGR 220—Private Secretary to the Deputy Assistant Secretary for Administration.
AGR 222—Confidential Assistant to the Manager, Federal Crop Insurance Corporation.
AGR 224—Director, Congressional and Public Affairs Division, to the Manager, Federal Crop Insurance Corporation.
AGR 225—Confidential Assistant to the Manager, Federal Crop Insurance Corporation.
AGR 226—Confidential Assistant to the Administrator, Food and Nutrition Service.
AGR 228—Confidential Assistant to the Inspector General.
AGR 229—Secretary (Typing) to the Executive Assistant to the Secretary.
AGR 231—Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 232—Confidential Assistant to the Administrator, Farmers Home Administration.
AGR 233—Private Secretary to the Special Assistant to the Secretary.
AGR 234—Confidential Assistant to the Administrator, Office of International Cooperation and Development.
AGR 235—Confidential Assistant to the Administrator, Agricultural Marketing Service.
AGR 236—Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service.
AGR 238—Staff Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 242—Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 244—Confidential Assistant to the Chief, Soil Conservation Service.
AGR 247—Private Secretary to the Inspector General.
AGR 250—Private Secretary to the Deputy Under Secretary for International Affairs and Commodity Programs.
AGR 257—Administrator, Human Nutrition Information Service, to the Assistant Secretary for Food and Consumer Services.
AGR 258—Confidential Assistant to the Administrator, Foreign Agricultural Service.
AGR 260—Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 261—Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 262—Confidential Assistant to the Assistant Secretary for Science and Education.
AGR 263—Confidential Assistant to the Assistant Secretary for Natural Resources and Environment.
AGR 265—Staff Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 266—Staff Assistant to the Administrator, Food and Nutrition Service.
AGR 267—Staff Assistant to the Assistant Secretary for Governmental and Public Affairs.
AGR 268—Confidential Assistant for Legislative Affairs to the Deputy Administrator, Policy and Program Support, Rural Electrification Administration.
AGR 271—Confidential Assistant to the Secretary.
AGR 273—Confidential Assistant to the Administrator, Foreign Agricultural Service.
AGR 275—Private Secretary to the Deputy Secretary.
AGR 276—Confidential Assistant to the Administrator, Agricultural Research Service.
AGR 277—Confidential Assistant to the Chief, Soil Conservation Service.
AGR 279—Confidential Assistant to the Administrator, Foreign Agricultural Service.
AGR 281—Executive Assistant to the Administrator, Agricultural Stabilization and Conservation Service.

Section 213.3314 Department of Commerce

COM 1—Confidential Assistant to the Secretary.
COM 4—Confidential Assistant to the Secretary.
COM 5—Confidential Assistant to the Special Assistant to the Secretary.
COM 12—Private Secretary to the Deputy Secretary.
COM 16—Confidential Assistant to the General Counsel.
COM 18—Private Secretary to the Deputy General Counsel.
COM 19—Chauffeur to the Secretary.
COM 20—Confidential Assistant to the Deputy Assistant Secretary for Administration.
COM 22—Deputy Director to the Deputy Assistant Secretary for Congressional Affairs.
COM 70—Congressional Liaison Officer to the Assistant Secretary, Economic Development Administration.
COM 114—Private Secretary to the Director, Minority Business Development Agency.
COM 147—Confidential Assistant to the Special Assistant to the Deputy Secretary.
COM 151—Confidential Assistant to the Deputy Secretary.

COM 152—Congressional Liaison Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs.
COM 156—Special Assistant to the Assistant Secretary, Economic Development Administration.
COM 158—International Tourism Officer to the Deputy Under Secretary, Travel and Tourism Administration.
COM 161—Confidential Assistant to the Deputy Under Secretary, International Trade Administration.
COM 162—Confidential Assistant to the Assistant Secretary for International Economic Policy, International Trade Administration.
COM 175—Congressional Liaison Specialist to the Assistant Secretary for Congressional Affairs.
COM 183—Confidential Assistant to the Assistant Secretary for Communications and Information.
COM 184—Confidential Assistant to the Director, National Bureau of Standards.
COM 190—Director, Office of Congressional Affairs, to the Assistant Secretary for Communications and Information.
COM 191—Confidential Assistant to the General Counsel.
COM 192—Legislative Director to the Director, Office of Congressional Affairs.
COM 197—Congressional Liaison Officer to the Deputy Assistant Secretary for Congressional Affairs.
COM 198—Congressional Liaison Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs.
COM 199—Congressional Liaison Specialist to the Deputy Assistant Secretary for Congressional Affairs.
COM 200—Congressional Liaison Officer to the Assistant Secretary for Congressional Affairs.
COM 202—Congressional Liaison Assistant to the Deputy Assistant Secretary for Congressional Affairs.
COM 218—Special Assistant to the Assistant Secretary, National Oceanic and Atmospheric Administration.
COM 220—Confidential Assistant to the Deputy Assistant Secretary for East Asia and the Pacific, International Trade Administration.
COM 222—Private Secretary to the Inspector General.
COM 224—Confidential Assistant to the Under Secretary, International Trade Administration.
COM 247—Private Secretary to the Under Secretary for International Trade.
COM 248—Special Assistant to the Deputy Secretary.
COM 254—Supervisory Public Affairs Specialist to the Director, Minority Business Development Agency.
COM 258—Confidential Assistant to the Deputy Assistant Secretary for Import Administration, International Trade Administration.
COM 259—Confidential Assistant to the Deputy Under Secretary, International Trade Administration.
COM 263—Confidential Assistant to the Assistant Secretary for Trade Development, International Trade Administration.
COM 264—Special Assistant to the Deputy Assistant Secretary, Economic Development Administration.
COM 266—Confidential Assistant to the Assistant Secretary for Trade Administration, International Trade Administration.
COM 267—Confidential Assistant to the Deputy Assistant Secretary for Export Administration, International Trade Administration.
COM 270—Secretary (Typing) to the Special Assistant to the Secretary.
COM 275—Confidential Assistant to the Director, Office of Business Liaison.
COM 278—Confidential Assistant to the Assistant Secretary for Trade Administration, International Trade Administration.
COM 280—Congressional Staff Assistant to the Deputy Assistant Secretary for Congressional Affairs.
COM 282—Special Assistant to the Deputy Assistant Secretary for Congressional Affairs.
COM 285—Deputy Director, Office of Intergovernmental Affairs.
COM 287—Congressional Liaison Assistant to the Deputy Assistant Secretary for Congressional Affair.
COM 288—Confidential Assistant to the Director, Office of Business Liaison.
COM 290—Confidential Assistant to the Director, Office of Business Liaison.
COM 292—Special Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs.
COM 293—Special Assistant to the Director, Office of Intergovernmental Affairs.
COM 294—Confidential Assistant to the Special Assistant to the Secretary.
COM 296—Confidential Aide to the Special Assistant to the Secretary.
COM 297—Confidential Assistant to the Assistant Secretary for Administration.
COM 300—Confidential Assistant to the Deputy Under Secretary for International Trade, International Trade Administration.
COM 301—Special Assistant to the Deputy Assistant Secretary for Import Administration, International Trade Administration.
COM 303—Confidential Assistant to the Assistant Secretary for Administration.
COM 304—Special Assistant to the Under Secretary for Travel and Tourism.
COM 305—Private Secretary to the Under Secretary for Travel and Tourism.
COM 309—Confidential Assistant to the Director, Minority Business Development Agency.
COM 310—Private Secretary to the Deputy Under Secretary for Travel and Tourism.
COM 311—Confidential Assistant to the Special Assistant to the Secretary.
COM 312—Confidential Assistant to the Director General, U.S. and Foreign Commercial Service.
COM 316—Confidential Assistant to the Deputy Assistant Secretary for Trade Information and Analysis, International Trade Administration.
COM 321—Director, Office of Public Affairs to the Under Secretary for International Trade.
COM 324—Confidential Assistant to the Deputy Assistant Secretary for International Economic Policy.
COM 325—Confidential Assistant to the Deputy Assistant Secretary for Africa, Near East, and South Asia, International Trade Administration.
COM 326—Confidential Assistant to the Deputy Assistant Secretary for U.S. and Foreign Commercial Service.
COM 327—Special Assistant to the Deputy Secretary.
COM 329—Congressional Liaison Specialist to the Director, Congressional Affairs, International Trade Administration.
COM 330—Confidential Assistant to the Assistant Secretary for Trade Development, International Trade Administration.
COM 332—Confidential Assistant to the Deputy Assistant Secretary for Capital Goods and International Construction, International Trade Administration.
COM 335—Congressional Liaison Officer to the Deputy Assistant Secretary for Congressional Affairs.
COM 337—Congressional Liaison Specialist to the Assistant Secretary for Congressional and Intergovernmental Affairs.
COM 340—Special Assistant to the

Administrator, National Oceanic and Atmospheric Administration.
COM 342—Confidential Assistant to the Special Assistant to the Deputy Secretary.
COM 343—Confidential Assistant to the Deputy Assistant Secretary for the U.S. and Foreign Commercial Service.
COM 344—Congressional Liaison Specialist to the Under Secretary, International Trade Administration.
COM 345—Confidential Assistant to the Under Secretary, International Trade Administration.
COM 348—Special Assistant to the Director, Office of Public Affairs.
COM 350—Deputy Director to the Director, Office of Business Liaison.
COM 356—Confidential Assistant to the Deputy Director, Minority Business Development Agency.
COM 357—Confidential Assistant to the Director, Office of Export Trading Company Affairs.
COM 360—Congressional Liaison Officer to the Under Secretary for Economic Affairs.
COM 361—Special Assistant to the Director, Bureau of the Census.
COM 362—Congressional Affairs Specialist to the Director, Office of Congressional Affairs, National Oceanic and Atmospheric Administration.
COM 363—Congressional Affairs Specialist to the Director, Office of Congressional Affairs, National Oceanic and Atmospheric Administration.
COM 367—Confidential Assistant to the Director of Policy and Planning, National Oceanic and Atmospheric Administration.
COM 368—Congressional Affairs Specialist to the Director of Congressional Affairs, National Oceanic and Atmospheric Administration.
COM 371—Confidential Assistant to the Director, Office of Legislative Affairs, National Oceanic Atmospheric Administration.
COM 372—Deputy Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration
COM 376—Confidential Assistant to the Special Assistant to the Deputy Secretary.
COM 378—Congressional Liaison Specialist to the Under Secretary for Economic Affairs.
COM 379—Confidential Assistant to the General Counsel.
COM 380—Special Assistant to the Deputy Assistant Secretary for Import Administration, International Trade Administration.
COM 382—Confidential Aide to the Special Assistant to the Secretary.
COM 383—Confidential Assistant to the Assistant Secretary for Economic Development.
COM 384—Special Assistant to the Director, Minority Business Development Agency.
COM 386—Confidential Aide to the Deputy Under Secretary for Travel and Tourism.
COM 389—Confidential Assistant to the Deputy Assistant Secretary for Trade Information and Analysis.
COM 392—Confidential Assistant to the Deputy Assistant Secretary for Basic Industries, International Trade Administration.
COM 393—Special Assistant to the Deputy Assistant Secretary for Congressional Affairs.
COM 394—Supervisory Public Affairs Specialist to the Director, Office of Public Affairs.
COM 396—Assistant Legislative Director to the Director of Congressional Affairs, National Oceanic and Atmospheric Administration.
COM 397—Congressional Affairs Advisor to the Director, Bureau of the Census.
COM 399—Special Assistant to the Deputy Assistant Secretary for Domestic Operations, Economic Development Administration.
COM 400—Confidential Assistant to the Deputy Under Secretary for International Trade, International Trade Administration.
COM 404—Special Assistant to the Deputy Administrator, National Oceanic and Atmospheric Administration.
COM 406—Associate Director, National Oceanic and Atmospheric Administration.
COM 408—Confidential Assistant to the General Counsel.
COM 409—Confidential Aide to the Special Assistant to the Secretary.
COM 411—Secretary to the Deputy Assistant Secretary for Africa, Near East, and South Asia, International Trade Administration.
COM 412—Confidential Assistant to the Deputy Assistant Secretary for Services, International Trade Administration.
COM 413—Confidential Aide to the Special Assistant to the Secretary.
COM 414—Congressional Affairs Specialist to the Legislative Director, National Oceanic and Atmospheric Administration.
COM 415—Congressional Affairs Specialist to the Legislative Director, National Oceanic and Atmospheric Administration.
COM 416—Director, Office of Consumer Affairs.
COM 417—Special Assistant to the Assistant Secretary for Administration.
COM 418—Confidential Assistant to the Under Secretary for Economic Affairs.
COM 419—Confidential Assistant to the Deputy Under Secretary for International Trade.
COM 420—Confidential Assistant to the Director General, U.S. and Foreign Commercial Service.
COM 421—Confidential Assistant to the Deputy Assistant Secretary for Trade Development, International Trade Administration.
COM 422—Confidential Assistant to the Director, Commercial Space Programs.
COM 423—Director of Congressional Affairs to the Assistant Secretary and Commissioner, Patent and Trademark Office.

Section 213.3315 Department of Labor

LAB 3—Special Assistant to the Secretary.
LAB 7—Private Secretary to the Under Secretary.
LAB 17—Senior Liaison Officer to the Deputy Under Secretary for Legislative Affairs.
LAB 18—Associate Deputy Under Secretary for International Labor Affairs.
LAB 25—Executive Director to the Deputy Under Secretary for Congressional Affairs.
LAB 41—Senior Liaison Officer to the Deputy Under Secretary for Congressional Affairs.
LAB 44—Senior Liaison Officer to the Deputy Under Secretary for Congressional Affairs.
LAB 45—Executive Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 49—Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 55—Staff Assistant to the Deputy Under Secretary for Congressional Affairs.
LAB 64—Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 84—Special Assistant to the Deputy Under Secretary for Labor-Management Relations and Cooperative Programs.
LAB 89—Executive Assistant to the Deputy Under Secretary for Labor-Management Relations and Cooperative Programs.
LAB 91—Confidential Staff Assistant to the Deputy Under Secretary for

Congressional Affairs.
LAB 93—Special Assistant to the Secretary.
LAB 97—Confidential Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 100—Special Assistant to the Deputy Under Secretary for International Labor Affairs.
LAB 103—Secretary's Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 104—Secretary's Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 105—Secretary's Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 106—Secretary's Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 107—Secretary's Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 108—Secretary's Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 109—Secretary's Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 110—Secretary's Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 111—Secretary's Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 112—Secretary's Representative to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 115—Secretary (Typing) to the Secretary's Representative.
LAB 116—Secretary (Typing) to the Secretary's Representative.
LAB 118—Secretary (Typing) to the Secretary's Representative.
LAB 122—Secretary (Typing) to the Secretary's Representative.
LAB 127—Staff Assistant to the Director, Office of Workers' Compensation Programs.
LAB 128—Special Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 129—Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 130—Special Assistant to the Secretary.
LAB 132—Associate Deputy Under Secretary for Congressional Affairs.
LAB 133—Special Assistant to the Director, Women's Bureau.
LAB 141—Staff Assistant to the Director, Office of Workers' Compensation Programs.
LAB 145—Deputy Liaison Officer to the Deputy Under Secretary for Congressional Affairs.
LAB 146—Staff Assistant to the Solicitor.
LAB 151—Special Assistant to the Deputy Director, Women's Bureau.
LAB 152—Special Assistant to the Deputy Director, Women's Bureau.
LAB 154—Senior Liaison Officer to the Deputy Under Secretary for Congressional Affairs.
LAB 159—Special Assistant to the Deputy Under Secretary for International Affairs.
LAB 160—Confidential Assistant to the Secretary.
LAB 171—Special Assistant to the Secretary.
LAB 172—Special Assistant to the Under Secretary.
LAB 174—Special Assistant to the Under Secretary.
LAB 175—Special Assistant to the Under Secretary.
LAB 179—Executive Assistant to the Deputy Under Secretary, Employment Standards Administration.
LAB 180—Senior Liaison Officer to the Deputy Under Secretary for Congressional Affairs.
LAB 183—Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 184—Special Assistant for Public Affairs to the Deputy Under Secretary for Employment Standards.
LAB 186—Special Assistant to the Director, Women's Bureau.
LAB 187—Special Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 189—Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 190—Special Assistant to the Assistant Secretary for Policy.
LAB 191—Staff Assistant to the Secretary of Labor.
LAB 192—Staff Assistant to the Assistant Secretary for Pension and Welfare Benefits Programs.
LAB 196—Executive Assistant to the Assistant Secretary for Veterans' Employment and Training.
LAB 199—Deputy Liaison Officer to the Deputy Under Secretary for Congressional Affairs.
LAB 200—Confidential Staff Assistant to the Assistant Secretary, Employment and Training Administration.
LAB 204—Special Assistant to the Assistant Secretary for Veterans' Employment and Training.
LAB 205—Legislative Analyst to the Deputy Under Secretary for Congressional Affairs.
LAB 208—Deputy Liaison Officer to the Deputy Under Secretary for Congressional Affairs.
LAB 209—Secretary (Steno) to the Assistant Secretary for Veterans' Employment and Training.
LAB 212—Staff Assistant to the Secretary.
LAB 213—Special Assistant to the Assistant Secretary for Education and Training.
LAB 217—Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs.
LAB 219—Special Assistant to the Associate Deputy Under Secretary for Intergovernmental Affairs.
LAB 220—Special Assistant to the Deputy Under Secretary for Public and Intergovernmental Affairs.
LAB 221—Special Assistant to the Deputy Under Secretary for Public and Intergovernmental Affairs.
LAB 224—Confidential Staff Assistant to the Special Assistant to the Assistant Secretary, Mine Safety and Health Administration.
LAB 225—Executive Assistant to the Assistant Secretary, Pension and Welfare Benefits Programs.
LAB 228—Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration.
LAB 230—Special Assistant to the Associate Deputy Under Secretary for Intergovernmental Affairs.
LAB 231—Special Assistant to the Associate Deputy Under Secretary for Intergovernmental Affairs.
LAB 234—Senior Liaison Officer to the Deputy Under Secretary for Congressional Affairs.
LAB 235—Senior Liaison Officer to the Deputy Under Secretary for Congressional Affairs.
LAB 236—Special Assistant to the Associate Deputy Under Secretary for Intergovernmental Affairs.
LAB 237—Deputy Liaison Officer to the Deputy Under Secretary for Congressional Affairs.
LAB 238—Assistant to the Secretary's Representative.
LAB 239—Staff Assistant to the Under Secretary.
LAB 240—Assistant to the Secretary's Representative.
LAB 241—Special Assistant to the Director, Office of Information and Public Affairs.
LAB 243—Deputy Liaison Officer to the Deputy Under Secretary for Congressional Affairs.
LAB 244—Special Assistant to the Secretary.
LAB 245—Assistant to the Secretary's Representative.
LAB 246—Assistant to the Secretary's Representative.
LAB 247—Staff Assistant to the Associate Deputy Under Secretary

for Intergovernmental Affairs.
LAB 248—Staff Assistant to the Associate Deputy Under Secretary for Intergovernmental Affairs.

Section 213.3316 Department of Health and Human Services

HHS 2—Special Assistant to the Chief of Staff.
HHS 5—Writer to the Secretary.
HHS 11—Special and Confidential Assistant to the Under Secretary.
HHS 14—Special Assistant to the Executive Secretary.
HHS 17—Staff Assistant to the Secretary.
HHS 26—Special Assistant to the Executive Secretary.
HHS 55—Confidential Assistant to the Assistant Secretary for Legislation.
HHS 66—Special Assistant to the Deputy Assistant Secretary for Legislation.
HHS 120—Assistant to the General Counsel.
HHS 127—Special Assistant to the Director, Office of Civil Rights.
HHS 167—Executive Director, Federal Council on Aging to the Assistant Secretary for Human Development Services.
HHS 170—Confidential Assistant to the Under Secretary.
HHS 171—Special Assistant/Advisory Committee Officer to the Under Secretary.
HHS 187—Special Assistant to the Deputy Assistant Secretary for Legislation (Health).
HHS 213—Steward to the Secretary.
HHS 217—Confidential Secretary to the Assistant Secretary for Legislation.
HHS 220—Confidential Assistant to the Deputy Assistant Secretary for Planning and Evaluation (Health).
HHS 264—Writer to the Secretary.
HHS 267—Special Initiatives Coordinator to the Secretary.
HHS 273—Special Assistant to the Deputy Assistant Secretary for Legislation.
HHS 276—Special Assistant to the Deputy Commissioner, Food and Drug Administration.
HHS 289—Confidential Assistant to the Associate Administrator for External Affairs, Health Care Financing Administration.
HHS 293—Special Assistant to the Commissioner, Administration for Children, Youth and Families, Office of Human Development Services.
HHS 305—Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs.
HHS 306—Special Assistant to the Director, Office of Policy and Legislation.
HHS 329—Executive Assistant to the Commissioner of Social Security.
HHS 336—Special Assistant to the Deputy Assistant Secretary for Legislation (Human Services).
HHS 339—Confidential Assistant to the Deputy Assistant Secretary, Office of Legislation.
HHS 349—Confidential Assistant to the Executive Assistant.
HHS 359—Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation.
HHS 361—Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation.
HHS 368—Director, Office of Intergovernmental Affairs, Health Care Financing Administration.
HHS 372—Special Assistant to the Director, Office of Program Coordination and Review.
HHS 376—Confidential Secretary to the Regional Director.
HHS 383—Special Assistant to the Assistant Secretary for Public Affairs.
HHS 387—Confidential Secretary to the General Counsel.
HHS 389—Special Assistant to the Director, Office of Private Sector Initiatives.
HHS 393—Special Assistant to the Director, Office of Community Services.
HHS 394—Confidential Assistant to the Executive Secretary.
HHS 395—Special Assistant to the Director, Office of Community Services.
HHS 399—Special Assistant to the Assistant Secretary for Human Development Services.
HHS 400—External Affairs Specialist to the Director, Office of Community Services.
HHS 402—Confidential Assistant to the Director, Office of Community Services.
HHS 411—Confidential Assistant to the Associate Commissioner for Governmental Affairs, Social Security Administration.
HHS 414—Director, Division of Legislative Services and Congressional Affairs to the Director of Legislation and Policy, Health Care Financing Administration.
HHS 415—Confidential Assistant to the Secretary.
HHS 418—Confidential Staff Assistant to the Chief of Staff.
HHS 423—Special Assistant to the Associate Commissioner, Administration for Children, Youth and Families, Office of Human Development Services.
HHS 424—Staff Assistant to the Secretary.
HHS 425—Special Assistant to the Executive Assistant to the Secretary.
HHS 426—Director, Office of Legislation and Policy, Health Care Financing Administration.
HHS 427—Executive Director, President's Committee on Mental Retardation.
HHS 430—Director, Office of Intergovernmental Communications to the Associate Commissioner for Family Assistance, Social Security Administration.
HHS 432—Confidential Staff Assistant to the Associate Commissioner for Family Assistance, Social Security Administration.
HHS 434—Confidential Assistant to the Commissioner, Administration for Children, Youth and Families.
HHS 435—Executive Assistant to the Director, Office of Child Support Enforcement.
HHS 436—Associate Commissioner for Family and Youth Services Bureau, Administration for Children, Youth and Families.
HHS 437—Special Assistant to the Director, National Institutes of Health.
HHS 438—Confidential Assistant to the Director, Office of Intergovernmental Affairs, Health Care Financing Administration.
HHS 439—Director, Office of Family Planning, Public Health Service.
HHS 442—Director, Office of Adolescent Pregnancy Programs, Public Health Service.
HHS 443—Confidential Staff Assistant to the Director, Office of Child Support Enforcement.
HHS 446—Special Assistant to the Chief of Staff.
HHS 448—Staff Assistant to the Associate Commissioner for Governmental Affairs, Social Security Administration.
HHS 450—Special Assistant for Minority Health, Public Health Service.
HHS 451—Confidential Staff Assistant to the Director, Office of Community Services.
HHS 452—Special Assistant for Advisory Committees to the Special Assistant/Advisory Committee Officer.
HHS 453—Special Assistant to the Deputy Commissioner for Policy and External Affairs, Social Security Administration.
HHS 454—Confidential Assistant to the Director, Office of Legislation

and Policy, Health Care Financing Administration.
HHS 456—Confidential Assistant to the Administrator, Health Care Financing Administration.
HHS 457—Special Assistant to the Under Secretary.
HHS 458—External Affairs Advisor to the Senior Advisor for External Affairs, Social Security Administration.
HHS 460—External Affairs Advisor to the Senior Advisor for External Affairs, Social Security Administration.
HHS 461—Director, Division of Legislation, to the Director, Office of Legislation and Policy, Health Care Financing Administration.
HHS 462—Special Assistant for Liaison Activities to the Administrator, Alcohol, Drug Abuse and Mental Health Administration, Public Health Service.
HHS 463—Executive Assistant to the Associate Commissioner, Office of Family Assistance.
HHS 464—Confidential Assistant to the Assistant Secretary for Human Development Services.
HHS 465—Associate Commissioner for Governmental Affairs, Social Security Administration.
HHS 466—Special Assistant to the Executive Assistant to the Secretary.
HHS 467—Confidential Assistant to the Director, Office of Community Services, Family Support Administration.
HHS 468—Deputy Director, Office of Community Services, Family Support Administration.
HHS 469—Director, Office of Communications Technology, Social Security Administration.
HHS 470—Confidential Assistant to the Associate Administrator for External Affairs, Health Care Financing Administration.
HHS 471—Director, Policy, Planning and Liaison Staff, Office of Prepaid Health Care, Health Care Financing Administration.
HHS 473—Director, Office of Policy, Planning and Legislation, to the Assistant Secretary for Human Development Services.
HHS 474—Special Assistant to the Deputy Commissioner, Social Security Administration.
HHS 476—Special Assistant to the Deputy Assistant Secretary for Planning and Evaluation (Health Policy).
HHS 477—Special Assistant for Policy Development to the Director, Policy Development Staff, Social Security Administration.
HHS 480—Deputy Director, Office of Congressional/External Affairs, Social Security Administration.
HHS 481—Director, Office of Congressional/External Affairs, Social Security Administration.
HHS 482—Director, Policy Development Staff, Social Security Administration.
HHS 483—Special Assistant to the Commissioner of Social Security.
HHS 488—Special Assistant to the Associate Commissioner, Children's Bureau, Administration for Children, Youth and Families.

Section 213.3317 Department of Education

EDU 6—Special Assistant to the Executive Secretary.
EDU 7—Special Assistant to the Secretary.
EDU 9—Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education.
EDU 14—Special Assistant to the Deputy Under Secretary for Management.
EDU 16—Confidential Assistant to the General Counsel.
EDU 20—Steward to the Executive Assistant.
EDU 35—Special Assistant to the Secretary.
EDU 37—Special Assistant to the Secretary.
EDU 38—Special Assistant to the Assistant Secretary, Office of Postsecondary Education.
EDU 44—Director of Policy Planning to the Assistant Secretary for Elementary and Secondary Education.
EDU 46—Special Assistant to the Assistant Secretary for Vocational and Adult Education.
EDU 47—Confidential Assistant to the Director, National Institute of Education.
EDU 49—Confidential Assistant to the Deputy Assistant Secretary, Office of Legislation and Public Affairs.
EDU 52—Special Assistant to the Director, Division of Adult Education, Office of Vocational and Adult Education.
EDU 53—Confidential Assistant to the Director, Office of Intergovernmental and Interagency Affairs.
EDU 55—Special Assistant to the Director, Intergovernmental Affairs Staff.
EDU 63—Special Assistant to the Under Secretary.
EDU 66—Special Assistant to the Secretary.
EDU 68—Confidential Assistant to the Deputy Under Secretary for Management.
EDU 70—Confidential Assistant to the Director, Intergovernmental Affairs Staff.
EDU 72—Special Assistant to the Assistant Secretary, Office of Legislation and Public Affairs.
EDU 74—Executive Assistant to the Assistant Secretary for Legislation.
EDU 78—Special Assistant to the Assistant Secretary for Civil Rights.
EDU 86—Confidential Assistant to the Commissioner, Rehabilitative Services Administration.
EDU 88—Special Assistant to the Assistant Secretary for Elementary and Secondary Education.
EDU 94—Confidential Assistant to the Assistant Secretary for Postsecondary Education.
EDU 99—Special Assistant to the Assistant Secretary, Office of Educational Research and Improvement.
EDU 105—Secretary's Regional Representative.
EDU 106—Secretary's Regional Representative.
EDU 107—Secretary's Regional Representative.
EDU 108—Secretary's Regional Representative.
EDU 109—Secretary's Regional Representative.
EDU 110—Secretary's Regional Representative.
EDU 111—Secretary's Regional Representative.
EDU 113—Special Assistant to the Director, Division of Adult Education, Office of Vocational and Adult Education.
EDU 115—Special Assistant to the Deputy Assistant Secretary for Higher Education Programs.
EDU 116—Special Assistant to the Assistant Secretary for Postsecondary Education.
EDU 117—Director, Historically Black Colleges and Universities Staff, Office of Postsecondary Education.
EDU 118—Confidential Assistant to the Counselor to the Secretary/Chief of Staff.
EDU 121—Special Assistant to the Assistant Secretary for Special Education and Rehabilitative Services.
EDU 125—Special Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 127—Special Assistant to the Secretary.
EDU 131—Secretary's Regional Representative.
EDU 133—Special Assistant to the

Deputy Under Secretary for Planning, Budget and Evaluation.
EDU 142—Special Assistant to the Deputy Assistant Secretary for Operations, Office of Civil Rights.
EDU 143—Personal Assistant to the Special Assistant to the Secretary.
EDU 144—Special Assistant to the Comptroller, Office of the Deputy Under Secretary for Management.
EDU 147—Secretary's Regional Representative.
EDU 151—Special Assistant to the Assistant Secretary for Civil Rights.
EDU 152—Special Assistant to the Deputy Under Secretary for Management.
EDU 153—Special Assistant to the Director, Intergovernmental Affairs Staff, Office of Intergovernmental and Interagency Affairs.
EDU 154—Executive Director, Intergovernmental Advisory Council on Education, to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 155—Special Assistant to the Under Secretary.
EDU 157—Personal Assistant to the Deputy Under Secretary for Management.
EDU 158—Special Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 163—Special Assistant to the Deputy Assistant Secretary for Student Financial Assistance Programs, Office of Postsecondary Education.
EDU 167—Director, Operations Support Services to the Deputy Assistant Secretary for Operations, Office of Civil Rights.
EDU 168—Special Assistant to the Under Secretary.
EDU 169—Special Assistant to the Executive Assistant to the Under Secretary.
EDU 173—Confidential Assistant to the Assistant Secretary for Civil Rights.
EDU 176—Confidential Assistant to the Assistant Secretary for Special Education and Rehabilitative Services.
EDU 177—Special Assistant to the Assistant Secretary, Office of Legislation and Public Affairs.
EDU 179—Special Assistant to the Executive Assistant to the Secretary for Private Education.
EDU 180—Confidential Assistant to the Counselor to the Secretary.
EDU 181—Deputy Director, Postsecondary Relations Staff, Office of Postsecondary Education.
EDU 185—Staff Assistant to the Secretary's Regional Representative.
EDU 186—Staff Assistant to the Secretary's Regional Representative.
EDU 187—Special Assistant to the Assistant Secretary for Special Education and Rehabilitative Services.
EDU 188—Staff Assistant to the Secretary's Regional Representative.
EDU 189—Legislative Liaison to the Director, Legislative Liaison Staff.
EDU 190—Confidential Assistant to the Deputy Under Secretary for Management.
EDU 192—Deputy Director, Office of Bilingual Education and Minority Languages Affairs.
EDU 193—Executive Secretary to the Chief of Staff.
EDU 195—Special Assistant to the Comptroller, Office of the Deputy Under Secretary for Management.
EDU 196—Special Assistant to the Director, Special Education Programs, Office of Special Education and Rehabilitative Services.
EDU 200—Director, Office of Intergovernmental Affairs to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 203—Confidential Assistant to the Executive Assistant to the Under Secretary.
EDU 204—Special Assistant to the Secretary's Regional Representative.
EDU 205—Special Assistant to the Secretary.
EDU 206—Special Assistant to the Director, Office of Intergovernmental Affairs.
EDU 209—Special Assistant to the Deputy Assistant Secretary for Policy and Planning, Office of Educational Research and Improvement.
EDU 210—Special Assistant to the Director, Historically Black Colleges and Universities Staff, Office of Postsecondary Education.
EDU 211—Special Assistant to the Secretary's Regional Representative.
EDU 213—Special Assistant to the Director, Center for International Education.
EDU 214—Special Assistant to the Secretary's Regional Representative.
EDU 216—Confidential Assistant to the Chief of Staff/Counselor to the Secretary.
EDU 218—Special Assistant to the Deputy Assistant Secretary for Higher Education, Office of Postsecondary Education.
EDU 219—Special Assistant to the Director, Office of Legislative Liaison.
EDU 220—Special Assistant to the Director, Programs for the Improvement of Practice, Office of Educational Research and Improvement.
EDU 221—Confidential Assistant to the Under Secretary.
EDU 222—Special Assistant to the Secretary's Regional Representative.
EDU 223—Confidential Assistant to the Chief of Staff/Counselor to the Secretary.
EDU 224—Staff Assistant to the Executive Secretary.
EDU 225—Confidential Assistant to the Director of Public Affairs, Office of Planning, Budget and Evaluation.
EDU 226—Confidential Assistant to the Director of Public Affairs, Office of Planning, Budget and Evaluation.
EDU 228—Special Assistant to the Director, Office of Legislative Liaison.
EDU 229—Executive Assistant to the Deputy Assistant Secretary for Operations, Office of Educational Research and Improvement.
EDU 230—Confidential Assistant to the Executive Secretary.
EDU 232—Special Assistant to the Special Assistant to the Secretary.
EDU 233—Executive Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 237—Special Assistant to the Assistant Secretary for Civil Rights.
EDU 238—Confidential Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 239—Staff Assistant to the Director, Intergovernmental Affairs Staff, Office of Intergovernmental and Interagency Affairs.
EDU 240—Confidential Assistant to the Assistant Secretary for Civil Rights.
EDU 242—Confidential Assistant to the Assistant Secretary for Special Education and Rehabilitative Services.
EDU 246—Special Assistant to the Director, Public Affairs Service, Office of Planning, Budget and Evaluation.
EDU 247—Special Assistant to the Deputy Under Secretary for Student Financial Assistance Programs, Office of Postsecondary Education.
EDU 248—Executive Assistant to the Assistant Secretary for

Postsecondary Education.
EDU 249—Staff Assistant to the Director, Programs for the Improvement of Practice, Office of Educational Research and Improvement.
EDU 250—Special Assistant to the Secretary's Regional Representative.
EDU 251—Special Assistant to the Director, Intergovernmental Affairs, Office of Intergovernmental and Interagency Affairs.
EDU 253—Special Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 254—Director, Postsecondary Relations Staff, to the Deputy Assistant Secretary for Higher Education, Office of Postsecondary Education.
EDU 257—Confidential Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 258—Special Assistant to the Chief of Staff/Counselor to the Secretary.
EDU 259—Confidential Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs.
EDU 261—Special Assistant to the Commissioner, Rehabilitative Services Administration.
EDU 262—Director, Interagency Operations Staff, to the Deputy Under Secretary for Intergovernmental and Interagency Affairs.
EDU 264—Confidential Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs.

Section 213.3318 Environmental Protection Agency

EPA 5—Confidential Assistant to the Deputy Administrator.
EPA 18—Assistant to the Deputy Administrator.
EPA 19—Program Advisor to the Assistant Administrator for Water.
EPA 52—Special Assistant to the Executive Assistant to the Administrator.
EPA 58—Congressional Liaison Specialist to the Director, Office of Congressional Liaison.
EPA 61—Special Assistant to the Assistant Administrator for Administration and Resource Management.
EPA 70—Congressional Relations Officer to the Director, Office of Congressional Liaison.
EPA 75—Congressional Relations Officer to the Deputy Director, Office of Congressional Liaison.
EPA 86—Special Assistant to the Regional Administrator.
EPA 89—Special Assistant to the Assistant Administrator for Water.
EPA 93—Staff Assistant to the Executive Assistant to the Administrator.
EPA 94—Special Assistant to the Regional Administrator.
EPA 99—Staff Assistant to the Deputy Assistant Administrator for Administration and Resources Management.
EPA 100—Staff Assistant to the Associate Administrator.
EPA 103—Staff Assistant to the Assistant Administrator for External Affairs.
EPA 106—Special Assistant to the Director, Office of Public Affairs.
EPA 107—Special Assistant to the Deputy Administrator.
EPA 109—Special Assistant to the Assistant Administrator for Solid Waste and Emergency Response.
EPA 111—Special Assistant to the Director of Public Affairs.
EPA 112—Staff Assistant to the General Counsel.

Section 213.3319 Administrative Conference of the United States

ACUS 2—Secretary (Steno) to the Chairman.
ACUS 4—Staff Assistant to the Chairman.

Section 213.3322 Interstate Commerce Commission

ICC 1—Confidential Assistant to a Commissioner.
ICC 2—Confidential Assistant to a Commissioner.
ICC 3—Confidential Assistant to a Commissioner.
ICC 6—Confidential Assistant to a Commissioner.
ICC 8—Confidential Assistant to the Chairman.
ICC 20—Staff Advisor (Economics) to the Director, Office of Public Assets.
ICC 22—Staff Advisor (Economics) to a Commissioner.
ICC 43—Attorney-Advisor to a Commissioner.
ICC 45—Congressional Liaison Representative to the Director, Office of Legislative and Public Affairs.

Section 213.3323 Overseas Private Investment Corporation

OPIC 1—Chauffeur to the President.
OPIC 22—Assistant to the Treasurer.

Section 213.3325 The Tax Court of the United States

TCOUS 40—Secretary and Confidential Assistant to the Judge.
TCOUS 41—Secretary and Confidential Assistant to the Judge.
TCOUS 42—Secretary and Confidential Assistant to the Judge.
TCOUS 43—Secretary and Confidential Assistant to the Judge.
TCOUS 44—Secretary and Confidential Assistant to the Judge.
TCOUS 45—Secretary and Confidential Assistant to the Judge.
TCOUS 46—Secretary and Confidential Assistant to the Judge.
TCOUS 47—Secretary and Confidential Assistant to the Judge.
TCOUS 48—Secretary and Confidential Assistant to the Judge.
TCOUS 49—Secretary and Confidential Assistant to the Judge.
TCOUS 50—Secretary and Confidential Assistant to the Judge.
TCOUS 51—Secretary and Confidential Assistant to the Judge.
TCOUS 52—Secretary and Confidential Assistant to the Judge.
TCOUS 53—Secretary to the Judge.
TCOUS 54—Secretary and Confidential Assistant to the Judge.
TCOUS 55—Secretary and Confidential Assistant to the Judge.
TCOUS 56—Secretary and Confidential Assistant to the Judge.
TCOUS 57—Secretary and Confidential Assistant to the Judge.
TCOUS 58—Secretary and Confidential Assistant to the Judge.
TCOUS 59—Secretary and Confidential Assistant to the Judge.
TCOUS 60—Secretary and Confidential Assistant to the Judge.
TCOUS 61—Secretary and Confidential Assistant to the Judge.
TCOUS 62—Secretary and Confidential Assistant to the Judge.
TCOUS 63—Secretary and Confidential Assistant to the Judge.
TCOUS 64—Secretary and Confidential Assistant to the Judge.
TCOUS 65—Secretary and Confidential Assistant to the Judge.
TCOUS 66—Trial Clerk to the Judge.
TCOUS 67—Trial Clerk to the Judge.
TCOUS 68—Trial Clerk to the Judge.
TCOUS 69—Trial Clerk to the Judge.
TCOUS 70—Trial Clerk to the Judge.
TCOUS 71—Trial Clerk to the Judge.
TCOUS 72—Trial Clerk to the Judge.
TCOUS 73—Trial Clerk to the Judge.
TCOUS 75—Trial Clerk to the Judge.
TCOUS 76—Trial Clerk to the Judge.

Section 213.3327 Veterans Administration

VA 6—Confidential Assistant to the Administrator.
VA 10—Confidential Assistant to the Administrator.
VA 15—Confidential Assistant to the

Administrator.
VA 30—Confidential Assistant to the Director, Intergovernmental Affairs.
VA 34—Confidential Assistant to the Associate Deputy Administrator for Congressional and Intergovernmental Affairs.
VA 40—Confidential Assistant to the Associate Deputy Administrator for Congressional and Intergovernmental Affairs.
VA 42—Confidential Assistant to the Director, Congressional Affairs.
VA 48—Confidential Assistant to the Administrator.
VA 49—Confidential Assistant to the Administrator.

Section 213.3328 U.S. Information Agency

USIA 2—Special Assistant to the Director.
USIA 14—Special Assistant to the Associate Director for Programs.
USIA 21—Staff Assistant to the Director.
USIA 22—Director, New York Foreign Press Center to the Associate Director for Programs.
USIA 29—Assistant Counselor for Press and Public Affairs to the Counselor for Press and Public Affairs.
USIA 30—Staff Assistant to the Special Assistant to the Director.
USIA 33—Staff Assistant to the Director, Office of Public Liaison.
USIA 34—Special Assistant to the Director, Private Sector Programs.
USIA 37—Staff Assistant to the Special Assistant, Private Sector Liaison.
USIA 40—Staff Specialist to the Special Assistant, Private Sector Liaison.
USIA 42—Secretary (Typing) to the Associate Director for Management.
USIA 56—Staff Specialist to the Director, Office of Private Sector Liaison.
USIA 57—Special Assistant to the Associate Director for Educational and Cultural Affairs.
USIA 58—Special Assistant to the Deputy Director.
USIA 59—Special Assistant to the Deputy Director.
USIA 60—Special Assistant to the Director, Voice of America.
USIA 62—Confidential Assistant to the Director, Voice of America.
USIA 66—Staff Assistant to the Special Assistant (Private Sector Committees).
USIA 67—Chief, Voluntary Visitor Division to the Associate Director for Educational and Cultural Affairs.
USIA 73—Special Assistant to the Associate Director for Educational and Cultural Affairs.
USIA 75—Special Assistant to the General Counsel.
USIA 77—Special Assistant to the Associate Director for Management.
USIA 80—Special Assistant (Media Relations) to the Director, Office of Public Liaison.
USIA 81—Special Assistant to the Associate Director for Programs.
USIA 86—Public Affairs Specialist to the Associate Director for Broadcasting.
USIA 87—Staff Assistant to the Director, Office of Public Liaison.
USIA 88—Special Assistant to the Director, Television and Film Service.
USIA 91—Program Assistant to the Coordinator, U.S.-Soviet Exchange Initiative.
USIA 92—Special Assistant to the Associate Director for Programs.
USIA 93—Program Assistant to the Coordinator, U.S.-Soviet Exchange Initiative.
USIA 94—Special Assistant to the Director, Television and Film Service.
USIA 96—Corporate Liaison Officer to the Associate Director for Programs.
USIA 97—Corporate Liaison Officer to the Associate Director for Programs.

Section 213.3330 Securities and Exchange Commission

SEC 2—Executive Aide (Typing) to the Executive Assistant to the Chairman.
SEC 3—Confidential Assistant to the Commissioner.
SEC 4—Confidential Assistant to the Commissioner.
SEC 5—Confidential Assistant to the Commissioner.
SEC 6—Confidential Assistant to the Commissioner.
SEC 8—Secretary (Steno) to the Chief Accountant.
SEC 9—Secretary to the General Counsel.
SEC 11—Confidential Assistant to the Chairman.
SEC 12—Public Information Officer to the Chairman.
SEC 14—Secretary (Typing) to the Director of Economic and Policy Research.
SEC 15—Secretary (Steno) to the Director, Division of Market Regulation.
SEC 16—Secretary to the Director, Division of Enforcement.
SEC 18—Secretary (Steno) to the Director, Division of Investment Management.
SEC 19—Secretary (Typing) to the Director, Division of Corporate Finance.
SEC 21—Confidential Adviser on Corporate Practices to the Director, Division of Enforcement.

Section 213.3331 Department of Energy

DOE 2—Secretary (Confidential Assistant) to the Secretary.
DOE 8—Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 12—Private Secretary to a Member, Federal Energy Regulatory Commission.
DOE 34—Special Assistant to the Administrator, Bonneville Power Administration.
DOE 40—Legal Advisor to a Member, Federal Energy Regulatory Commission.
DOE 41—Legal Advisor to a Member, Federal Energy Regulatory Commission.
DOE 42—Legal Advisor to a Member, Federal Energy Regulatory Commission.
DOE 43—Technical Advisor to a Member, Federal Energy Regulatory Commission.
DOE 47—Technical Advisor to a Member, Federal Energy Regulatory Commission.
DOE 49—Legal Advisor to a Member, Federal Energy Regulatory Commission.
DOE 59—Staff Assistant to the Director, Office of Energy Research.
DOE 60—Confidential Assistant to a Member, Federal Energy Regulatory Commission.
DOE 68—Confidential Assistant to a Member, Federal Energy Regulatory Commission.
DOE 73—Legal Advisor to a Member, Federal Energy Regulatory Commission.
DOE 75—Legal Adviser to a Member, Federal Energy Regulatory Commission.
DOE 77—Staff Assistant to the Administrative Assistant to the Secretary and Chief of Staff.
DOE 87—Staff Assistant to the Associate Director, Office of Resource Management.
DOE 95—Staff Assistant to the General Counsel.
DOE 105—Confidential Assistant to a Member, Federal Energy Regulatory Commission.
DOE 106—Confidential Assistant to a Member, Federal Energy Regulatory Commission.
DOE 110—Private Secretary to a Member, Federal Energy Regulatory Commission.
DOE 114—Staff Assistant to the

Administrator, Bonneville Power Administration.
DOE 171—Special Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 172—Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 174—Staff Assistant to the Assistant Secretary for Fossil Energy.
DOE 179—Staff Assistant to the General Counsel.
DOE 182—Staff Assistant to the Director, Office of Congressional, Intergovernmental and Public Affairs.
DOE 186—Special Assistant to the Director, Office of External Affairs, Federal Energy Regulatory Commission.
DOE 189—Staff Assistant to the General Counsel.
DOE 190—Staff Assistant to the Secretary.
DOE 195—Staff Assistant to the Director, Minority Economic Impact.
DOE 198—Director, Senate Liaison Branch to the Director, Office of External Affairs, Federal Energy Regulatory Commission.
DOE 200—Staff Assistant to the Deputy Secretary.
DOE 204—Director, Division of Public Liaison, Office of Communications, Office of the Assistant Secretary for Congressional, Intergovernmental and Public Affairs.
DOE 206—Executive Assistant to the Director, Office of Energy Research.
DOE 210—Confidential Assistant (Secretary) to the Assistant Secretary for Fossil Energy.
DOE 212—Confidential Assistant (Secretary) to the Assistant Secretary for Nuclear Energy.
DOE 213—Senate Liaison Specialist to the Deputy Assistant Secretary for Senate Liaison.
DOE 217—Confidential Assistant (Secretary—Steno) to the Director, Office of Regulatory Analysis, Federal Energy Regulatory Commission.
DOE 220—Staff Assistant to the Director, Office of Communications.
DOE 221—Deputy Director, Office of Public Liaison.
DOE 227—Technical Advisor to a Member, Federal Energy Regulatory Commission.
DOE 228—Advisor to a Member, Federal Energy Regulatory Commission.
DOE 229—House Liaison Specialist to the Deputy Assistant Secretary for House Liaison, Office of Congressional, Intergovernmental and Public Affairs.
DOE 234—Director, Office of Public Affairs to the Director, Office of Communications.
DOE 236—Executive Assistant to the Chairman, Federal Energy Regulatory Commission.
DOE 238—Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 243—Staff Assistant to the Assistant Secretary for International Affairs.
DOE 244—Director, Office of Consumer Affairs to the Assistant Secretary for Congressional, Intergovernmental and Public Affairs.
DOE 245—Supervisory Legislative Affairs Specialist to the Assistant Secretary for Congressional, Intergovernmental and Public Affairs.
DOE 246—Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 247—Director, Division of Public Affairs, Federal Energy Regulatory Commission.
DOE 248—Staff Assistant to the Chairman, Federal Energy Regulatory Commission.
DOE 251—Intergovernmental Affairs Specialist to the Director, Office of External Affairs, Federal Energy Regulatory Commission.
DOE 259—Private Secretary to the Chairman, Federal Energy Regulatory Commission.
DOE 263—Staff Assistant to the Assistant Secretary for Management and Administration.
DOE 264—Staff Assistant to the Administrator, Energy Information Administration.
DOE 265—Executive Assistant to the Secretary.
DOE 268—Secretary (Confidential Assistant) to the Assistant Secretary for Management and Administration.
DOE 274—Staff Assistant to the Special Assistant to the Secretary.
DOE 276—Secretary (Confidential Assistant) to the Special Assistant to the Secretary.
DOE 279—Special Assistant to the Assistant Secretary for Nuclear Energy.
DOE 282—Staff Assistant to the Assistant Secretary for International Affairs and Energy Emergencies.
DOE 288—Special Assistant to the Deputy Assistant Secretary for Breeder Reactor Programs.
DOE 291—Confidential Assistant to the Under Secretary.
DOE 292—Chauffeur to the Secretary.
DOE 294—Special Programs Liaison Specialist to the Director, Office of Public Liaison, Office of Congressional, Intergovernmental and Public Affairs.
DOE 296—Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy.
DOE 299—Legislative Affairs Assistant, Program Liaison Division, Office of Congressional, Intergovernmental and Public Affairs.
DOE 301—Secretary (Confidential Assistant) to the Associate Director for Geological Repositories, Office of Civilian Radioactive Waste Management.
DOE 303—Staff Assistant to the Assistant Secretary for Environment, Safety and Health.
DOE 306—Special Assistant to the Assistant Secretary for Defense Programs.
DOE 307—Staff Assistant to the Assistant Secretary for Environment, Safety and Health.
DOE 308—Public Affairs Specialist to the Director, Office of Public Affairs.
DOE 309—Staff Assistant to the Deputy Secretary.
DOE 310—Secretary (Confidential Assistant) to the Deputy Secretary.
DOE 311—Confidential Assistant to the Director, Office of Congressional, Intergovernmental and Public Affairs.
DOE 314—Staff Assistant to the Assistant Secretary for International Affairs and Energy Emergencies.
DOE 315—Staff Assistant to the Director, Office of Energy Research.
DOE 317—Research Assistant to the Director, Office of Energy Research.
DOE 318—Director, Division of Press Services, to the Director, Office of Communications.
DOE 319—Staff Assistant to the Director, Office of Energy Research.
DOE 320—Special Assistant to the Assistant Secretary for Management and Administration.
DOE 321—Staff Assistant to the Director, Office of Congressional, Intergovernmental and Public Affairs.
DOE 323—Special Assistant to the Assistant Secretary for Fossil Energy.
DOE 324—Staff Assistant to the Deputy Assistant Secretary for Energy Emergencies.

DOE 325—Staff Assistant to the Deputy Assistant Secretary for Energy Emergencies.
DOE 326—Staff Assistant to the Director, Office of Communications.
DOE 327—Congressional Affairs Advisor to the Assistant Secretary for Defense Programs.
DOE 328—Staff Assistant to the Principal Deputy Assistant Secretary for Congressional, Intergovernmental and Public Affairs.
DOE 329—Staff Assistant to the Assistant Secretary for Management and Administration.
DOE 330—Staff Assistant to the Assistant Secretary for Management and Administration.
DOE 331—Staff Assistant to the Assistant Secretary for Management and Administration.
DOE 332—Research Assistant to the Assistant Secretary for Management and Administration.
DOE 333—Staff Assistant to the Assistant Secretary for Management and Administration.
DOE 334—Secretary (Confidential Assistant) to the Assistant Secretary for Defense Programs.
DOE 335—Special Assistant for Superconducting Super Colliding Coordination to the Under Secretary.
DOE 336—Staff Assistant to the Deputy Secretary.
DOE 337—Special Assistant to the Assistant Secretary for Management and Administration.
DOE 338—Director, Division of Congressional Affairs, Federal Energy Regulatory Commission.
DOE 339—Special Assistant to the Deputy Assistant Secretary for Energy Emergencies.

Section 213.3332 Small Business Administration

SBA 11—Deputy Assistant Administrator for Congressional and Legislative Affairs.
SBA 18—Special Assistant to the Administrator.
SBA 19—Executive Assistant to the Deputy Administrator.
SBA 30—Special Assistant to the Associate Administrator for Minority Small Business and Capital Ownership Development.
SBA 42—Special Assistant to the Administrator.
SBA 43—Special Assistant to the Assistant Administrator for Congressional and Legislative Affairs.
SBA 45—Special Assistant to the Associate Administrator for Procurement Affairs.
SBA 46—Special Assistant to the Administrator.
SBA 48—Confidential Assistant to the Assistant Administrator for Congressional and Legislative Affairs.
SBA 52—Special Assistant to the Administrator.
SBA 58—Confidential Assistant to the Chief of Staff.
SBA 64—Special Assistant to the Regional Administrator.
SBA 65—Special Assistant to the Regional Administrator.
SBA 66—Special Assistant to the Regional Administrator.
SBA 68—Special Assistant to the Regional Administrator.
SBA 69—Special Assistant to the Regional Administrator.
SBA 70—Special Assistant to the Regional Administrator.
SBA 71—Special Assistant to the Regional Administrator.
SBA 72—Special Assistant to the Regional Administrator.
SBA 73—Special Assistant to the Regional Administrator.
SBA 76—Executive Assistant to the Director of Women's Business Ownership.
SBA 90—Staff Assistant to the Administrator.
SBA 92—Staff Assistant to the Administrator.
SBA 96—Special Assistant to the Associate Administrator for Management Assistance.
SBA 99—Special Assistant to the Regional Administrator.
SBA 100—Special Assistant to the Regional Administrator.
SBA 103—Confidential Assistant to the Administrator.
SBA 105—Special Assistant to the Administrator.
SBA 106—Director, Office of Private Sector Initiatives to the Associate Deputy Director for Private Sector Initiatives.
SBA 107—Confidential Assistant to the Associate Deputy Administrator for Special Programs.
SBA 115—Special Assistant to the Regional Administrator.
SBA 121—Special Assistant to the Regional Administrator.
SBA 122—Special Assistant to the Regional Administrator.
SBA 123—Special Assistant to the Regional Administrator.
SBA 124—Special Assistant to the Assistant Administrator for Congressional and Legislative Affairs.
SBA 128—Director of Women's Business Ownership to the Associate Administrator for Development.
SBA 133—Director of Veterans Affairs to the Associate Deputy Administrator for Special Programs.
SBA 135—Special Assistant to the Regional Administrator.
SBA 136—Special Assistant to the Regional Administrator.
SBA 138—Special Assistant to the Director, Office of Private Sector Initiatives.

Section 213.3333 Federal Deposit Insurance Corporation

FDIC 2—Secretary to a Member.
FDIC 7—Special Assistant to the Director, Congressional Liaison Staff.
FDIC 9—Legislative Attorney and Advisor to the Director, Office of Congressional and Public Information.

Section 213.3334 Federal Trade Commission

FTC 1—Confidential Assistant to the Chairman.
FTC 2—Director, Office of Public Affairs to the Chairman.
FTC 6—Director of Congressional Relations to the Chairman.
FTC 11—Staff Assistant to a Commissioner.
FTC 12—Staff Assistant to the Director, Office of Public Affairs.
FTC 13—Public Affairs Specialist to the Chairman.
FTC 14—Congressional Liaison Specialist to the Chairman.

Section 213.3337 General Services Administration

GSA 24—Special Assistant to the Commissioner, Public Building Service.
GSA 52—Confidential Assistant to the Commissioner, Public Building Service.
GSA 64—Deputy (External Affairs) to the Associate Administrator for Operations.
GSA 69—Confidential Assistant to the Associate Administrator for Congressional Affairs.
GSA 70—Special Assistant to the Associate Administrator for Public Affairs.
GSA 72—Confidential Assistant to the Assistant Administrator for Federal Supply and Services.
GSA 79—Confidential Assistant to the Regional Administrator.
GSA 82—Special Assistant to the Associate Administrator for Public Affairs.
GSA 83—Confidential Assistant to the Regional Administrator.
GSA 85—Confidential Assistant to the Regional Administrator.

GSA 86—Confidential Assistant to the Regional Administrator.
GSA 87—Confidential Assistant to the Regional Administrator.
GSA 89—Confidential Assistant to the Associate Administrator for Congressional Affairs.
GSA 90—Special Assistant to the Associate Administrator for Congressional Affairs.
GSA 91—Confidential Assistant to the Commissioner, Public Building Service.
GSA 100—Director of Executive Secretariat to the Administrator.
GSA 103—Confidential Assistant to the Director of Executive Secretariat.
GSA 106—Special Assistant to the Associate Administrator for Public Affairs.
GSA 107—Special Assistant to the Executive Director, Office of Information Resources Management.
GSA 109—Confidential Assistant to the Regional Administrator.
GSA 113—Confidential Assistant to the Regional Administrator.
GSA 114—Confidential Assistant to the Regional Administrator.
GSA 115—Confidential Assistant to the Regional Administrator.
GSA 116—Special Assistant to the General Counsel.
GSA 117—Special Assistant to the Associate Administrator for Operations.
GSA 118—Confidential Assistant to the Regional Administrator.

Section 213.3338 Federal Communications Commission

FCC 9—Confidential Assistant to the Chief of Staff.
FCC 10—Legislative Affairs Officer to the Director, Office of Congressional and Public Affairs.
FCC 12—Confidential Staff Assistant to the Managing Director.
FCC 13—Congressional Liaison Specialist to the Legislative Affairs Officer, Office of Congressional and Public Affairs.
FCC 15—Chief, Press and News Media Division, Office of Congressional and Public Affairs.

Section 213.3339 U.S. International Trade Commission

ITC 1—Confidential Assistant to a Commissioner.
ITC 3—Staff Assistant (Economics) to a Commissioner.
ITC 5—Confidential Assistant to a Commissioner.
ITC 6—Staff Assistant (Economics) to a Commissioner.
ITC 7—Special Assistant (Economics) to a Commissioner.
ITC 9—Staff Assistant to the Chairman.
ITC 12—Staff Assistant (Economics) to a Commissioner.
ITC 13—Staff Assistant (Legal) to a Commissioner.
ITC 17—Staff Assistant (Legal) to a Commissioner.
ITS 18—Confidential Assistant to a Commissioner.
ITC 19—Staff Assistant (Economics) to a Commissioner.
ITC 22—Staff Assistant (Legal) to a Commissioner.
ITC 24—Staff Assistant (Legal) to a Commissioner.
ITC 25—Staff Assistant (Legal) to the Chairman.
ITC 26—Staff Assistant (Economics) to the Chairman.
ITC 27—Congressional Liaison to the Chairman.
ITC 30—Confidential Assistant to a Commissioner.
ITC 33—Staff Assistant to a Commissioner.
ITC 34—Staff Assistant (Legal) to a Commissioner.
ITC 35—Confidential Secretary (Typing) to the Chairman.

Section 213.3340 National Archives and Records Administration

NARA 1—Congressional Relations Officer to the Archivist of the United States.

Section 213.3341 National Labor Relations Board

NLRB 2—Confidential Assistant to the Chairman.
NLRB 3—Confidential Assistant to a Board Member.
NLRB 5—Confidential Assistant to a Board Member.
NLRB 9—Confidential Staff Assistant to the General Counsel.

Section 213.3342 Export-Import Bank of the United States

EXIM 2—Private Secretary to the First Vice President and Vice Chairman.
EXIM 3—Administrative Assistant to a Director.
EXIM 4—Administrative Assistant to a Director.
EXIM 5—Administrative Assistant to a Director.
EXIM 12—Secretary (Steno) to the Senior Vice President.
EXIM 16—Administrative Assistant to the General Counsel.
EXIM 24—Secretary (Steno) to the Senior Vice President-Director for Credits and Financial Guarantees.
EXIM 29—Special Assistant to the President and Chairman.
EXIM 31—Deputy Vice President for Public Affairs and Publications to the Vice President for Public Affairs and Publications.
EXIM 32—Special Assistant to the First Vice President and Vice Chairman.

Section 213.3343 Farm Credit Administration

FCA 1—Special Assistant to the Chairman.
FCA 2—Private Secretary to a Board Member.
FCA 3—Executive Assistant to the Chairman.
FCA 4—Deputy Director for Public Affairs to the Director, Office of Congressional and Public Affairs.
FCA 5—Confidential Assistant to the Director, Office of Congressional and Public Affairs.
FCA 6—Executive Assistant to a Board Member.
FCA 7—Private Secretary to a Board Member.
FCA 8—Secretary to the Chairman.
FCA 9—Executive Assistant to a Board Member.

Section 213.3344 Occupational Safety and Health Review Commission

OSHRC 2—Special Assistant to the Chairman.
OSHRC 3—Confidential Assistant to a Commissioner.
OSHRC 10—Special Counsel.

Section 213.3346 Selective Service System

SSS 9—Assistant Director for Government Affairs.
SSS 14—Deputy Director for Congressional Affairs.

Section 213.3347 Federal Mediation and Conciliation Service

FMCS 3—Public Affairs Director to the Executive Director.
FMCS 5—Staff Assistant to the Director.

Section 213.3348 National Aeronautics and Space Administration

NASA 1—Secretary (Steno) to the Administrator.
NASA 2—Secretary (Steno) to the Deputy Administrator.
NASA 18—Special Assistant to the Administrator.

Section 213.3351 Federal Mine Safety and Health Review Commission

FM 1—Secretary (Steno) to a Commissioner.
FM 2—Secretary (Typing) to a Commissioner.
FM 3—Confidential Secretary to a Commissioner.

FM 4—Confidential Secretary to a Commissioner.
FM 6—Attorney-Advisor to the Chairman.
FM 7—Attorney-Adviser (General) to a Commissioner.
FM 8—Attorney-Adviser (General) to a Commissioner.
FM 9—Attorney-Adviser (General) to a Commissioner.

Section 213.3352 Government Printing Office

GPO 7—Confidential Assistant to the Deputy Public Printer.
GPO 10—Confidential Assistant to the Director of Legislative and Public Affairs.
GPO 15—Special Assistant to the Public Printer.

Section 213.3354 Federal Home Loan Bank Board

FHLB 5—Staff Assistant to the Chairman.
FHLB 11—Director, Office of Communications to the Chairman.
FHLB 18—Secretary (Steno) to the Director, Office of District Banks.
FHLB 19—Congressional Liaison to the Executive Staff Director.
FHLB 21—Secretary (Steno) to the Congressional Liaison.
FHLB 31—Staff Assistant to the Director, Office of Communications.
FHLB 36—Deputy Chief of Staff to the Executive Director and Chief of Staff.
FHLB 37—Public Affairs Specialist to the Director, Office of Communications.
FHLB 39—Special Assistant for Legislative and Regulatory Policy to the Chairman.

Section 213.3356 Commission on Civil Rights

CCR 12—Confidential Assistant to a Commissioner.
CCR 13—Confidential Assistant to the Chairman.
CCR 14—Deputy General Counsel to the General Counsel.
CCR 23—Special Assistant to a Commissioner.
CCR 27—Public Affairs Officer to the Staff Director.
CCR 28—Special Assistant to a Commissioner.
CCR 29—Special Assistant to a Commissioner.
CCR 31—Special Assistant to the Staff Director.
CCR 32—Special Assistant to a Commissioner.

Section 213.3357 National Credit Union Administration

NCUA 6—Confidential Assistant to the Chairman.
NCUA 9—Staff Assistant to the Vice Chairman.
NCUA 12—Executive Assistant to the Vice Chairman.
NCUA 15—Secretary (Typing) to the President, Central Liquidity Facility.
NCUA 16—Confidential Assistant to the Board Member.
NCUA 18—Special Assistant to the Chairman.

Section 213.3359 ACTION

ACT 29—Special Assistant to the Director.
ACT 31—Executive Assistant to the Director.
ACT 32—Confidential Assistant to the Associate Director for Domestic and Anti-Poverty Operations.
ACT 37—Special Assistant to the Deputy Director.
ACT 44—Special Assistant to the Associate Director for Domestic and Anti-Poverty Operations.
ACT 48—Special Assistant to the Deputy Director.
ACT 51—Special Assistant to the Assistant Director for Volunteer Liaison.
ACT 62—Special Assistant to the Assistant Director for Volunteer Liaison.
ACT 79—Assistant Director for VISTA and Service Learning Programs to the Associate Director for Domestic and Anti-Poverty Operations.
ACT 82—Staff Assistant to the Associate Director for Legislative, Public, and Intergovernmental Affairs.
ACT 83—Confidential Assistant to the Deputy Director.
ACT 84—Staff Assistant to the Associate Director for Legislative, Public, and Intergovernmental Affairs.
ACT 86—Assistant Director for Legislative Affairs to the Associate Director for Legislative, Public and Intergovernmental Affairs.
ACT 87—Special Assistant to the Assistant Director for VISTA and Service Learning Programs, Office of Domestic and Anti-Poverty Operations.
ACT 88—Confidential. Assistant to the General Counsel.

Section 213.3360 Consumer Product Safety Commission

CPSC 6—Special Assistant to a Commissioner.
CPSC 7—Special Assistant (Legal) to a Commissioner.
CPSC 16—Director, Office of Congressional Relations to the Chairman.
CPSC 20—Special Assistant (Legal) to a Commissioner.
CPSC 23—Staff Assistant to a Commissioner.
CPSC 25—Staff Assistant to a Commissioner.
CPSC 28—Staff Assistant to a Commissioner.
CPSC 31—Special Assistant to the Executive Director.
CPSC 35—Special Assistant to the Chairman.
CPSC 38—Staff Assistant to the Chairman.
CPSC 39—Supervisory Public Affairs Specialist to the Chairman.
CPSC 41—Special Assistant to the Chairman.
CPSC 42—Public Affairs Specialist to the Chairman.
CPSC 46—Special Assistant to the Deputy Executive Director.
CPSC 48—Secretary (Steno) to the Chairman.

Section 213.3364 U.S. Arms Control and Disarmament Agency

ACDA 1—Secretary (Steno) to the Director.
ACDA 2—Private Secretary to the Deputy Director.
ACDA 4—Private Secretary to the Assistant Director for Verification and Intelligence.
ACDA 5—Secretary (Steno) to the Assistant Director for Nuclear and Weapons Control.
ACDA 10—Deputy Director for Congressional Affairs to the Director.
ACDA 11—Congressional Affairs Specialist to the Director, Office of Congressional Affairs.
ACDA 19—Private Secretary to the Special Advisor to the President and Secretary.
ACDA 20—Special Assistant to the Deputy Director for Public Affairs.
ACDA 22—Private Secretary to the Assistant Director for Multilateral Affairs.
ACDA 23—Staff Assistant to the Assistant Director for Multilateral Affairs.
ACDA 24—Special Assistant to the Assistant Director for Multilateral Affairs.
ACDA 27—Special Assistant to the Director.
ACDA 28—Staff Assistant to the Director.
ACDA 29—Congressional Affairs Specialist to the Director, Office of Congressional Affairs.
ACDA 30—Secretary (Steno) to the Special Representative for Arms Control and Disarmament.
ACDA 31—Special Assistant to the

Director.
ACDA 32—Secretary (Typing) to the Assistant Director for Strategic Programs.
ACDA 33—Special Assistant to the Assistant Director for Strategic Programs.

Section 213.3367 Federal Maritime Commission

FMC 2—Confidential Assistant to a Commissioner.
FMC 3—Confidential Assistant to a Commissioner.
FMC 4—Confidential Assistant to a Commissioner.
FMC 5—Confidential Assistant to a Commissioner.
FMC 7—Secretary (Steno) to a Commissioner.
FMC 8—Secretary (Steno) to a Commissioner.
FMC 9—Secretary (Typing) to a Commissioner.
FMC 11—Secretary to the Chairman.
FMC 23—Secretary (Steno) to the Counsel to the Chairman.

Section 213.3368 Agency for International Development

AID 34—Special Assistant to the Assistant Administrator, Bureau for Private Enterprise.
AID 35—Special Assistant to the Director, Office of Private and Voluntary Cooperation.
AID 38—Director, Office of Interbureau Affairs and Special Projects, to the Deputy Assistant Administrator for External Affairs.
AID 39—Special Assistant to the Director, Office of Private and Voluntary Cooperation.
AID 43—Special Assistant to the Assistant Administrator, Bureau for Food for Peace and Voluntary Service.
AID 44—Special Assistant to the Assistant Administrator, Bureau for Food for Peace and Voluntary Service.
AID 45—Deputy Assistant to the Administrator for Public Affairs to the Assistant Administrator, External Affairs.
AID 47—Special Assistant to the Assistant Administrator, Bureau for Food for Peace and Voluntary Service.
AID 48—Special Assistant to the Director of Policy Development and Program Review.
AID 57—Program Operations Assistant to the Director, Office of Private and Voluntary Cooperation.
AID 58—Special Assistant to the Coordinator, Office of Public Diplomacy for Latin America and the Caribbean.
AID 61—Public Affairs Specialist to the Assistant to the Administrator for External Affairs.
AID 64—Special Assistant to the Deputy Assistant Administrator for Management.
AID 65—Supervisory Public Affairs Specialist to the Deputy Assistant Administrator for External Affairs.
AID 67—Administrative Operations Assistant to the Deputy Assistant Administrator for External Affairs.
AID 68—Special Assistant to the Assistant Administrator for Private Enterprise.
AID 69—Public Affairs Specialist to the Supervisory Public Affairs Specialist, Office of Publications.
AID 70—Special Assistant to the Assistant Administrator for Latin America and the Caribbean.
AID 71—Special Assistant to the Deputy Administrator.
AID 73—Special Assistant to the Assistant Administrator for External Affairs.
AID 74—Congressional Liaison Officer to the Associate Director for Legislative Affairs.
AID 78—Program Operations Assistant to the Director, Office of Policy Development and Program Review.
AID 79—Special Operations Assistant to the Assistant Administrator for External Affairs.

Section 213.3372 Administrative Office of United States Courts

AOUSC 4—Supervisory Attorney-Advisor (Legislative) to the Legislative Affairs Officer.
AOUSC 5—Secretary (Steno) to the Deputy Legislative Affairs Officer.
AOUSC 7—Attorney-Advisor (Legislative) to the Deputy Legislative Affairs Officer.
AOUSC 8—Attorney-Advisor (Legislative) to the Legislative and Public Affairs Officer.
AOUSC 9—Public Information Officer to the Legislative and Public Affairs Officer.

Section 213.3376 Appalachian Regional Commission

ARC 8—Legislative and Policy Advisor to the Federal Co-Chairman.
ARC 9—Special Assistant to the Alternate Federal Co-Chairman.

Section 213.3377 Equal Employment Opportunity Commission

EEOC 2—Special Assistant to the Chairman.
EEOC 5—Confidential Assistant to a Member.
EEOC 12—Media Contact Specialist to the Director, Communications Staff, Office of Communications and Legislative Affairs.
EEOC 13—Confidential Assistant to the Chairman.
EEOC 15—Media Contact Specialist to the Director, Communications Staff, Office of Communications and Legislative Affairs.
EEOC 17—Special Assistant to a Member.
EEOC 29—Director, Communications Staff, to the Director, Office of Communications and Legislative Affairs.
EEOC 32—Special Assistant to a Commissioner.
EEOC 37—Social Science Research Specialist to the Director, Office of Program Research.
EEOC 38—Legislative Affairs Specialist to the Director, Office of Congressional Affairs.
EEOC 40—Media Contact Specialist to the Director, Communications Staff, Office of Communications and Legislative Affairs.
EEOC 41—Confidential Assistant to the Director, Office of Communications and Legislative Affairs.

Section 213.3379 Commodity Futures Trading Commission

CFTC 1—Administrative Assistant to the Chairman.
CFTC 3—Administrative Assistant to a Commissioner.
CFTC 4—Administrative Assistant to a Commissioner.
CFTC 5—Administrative Assistant to a Commissioner.
CFTC 6—Administrative Assistant to a Commissioner.
CFTC 7—Supervisory Public Affairs Specialist to the Chairman.
CFTC 12—Special Assistant to a Commissioner.
CFTC 14—Special Assistant to a Commissioner.
CFTC 21—Governmental Affairs Officer to the Chairman.

Section 213.3382 National Endowment for the Arts

NEA 45—Special Assistant to the Chairman.
NEA 49—Associate Deputy Chairman for Programs to the Deputy Chairman for Programs.
NEA 50—Special Assistant (Development) to the Chairman.
NEA 53—Special Assistant (Public Affairs) to the Chairman.

Section 213.3382 National Endowment for the Humanities

NEH 28—Public Affairs Officer to the

Deputy Chairman.
NEH 47—Special Assistant to the Chairman.
NEH 48—Congressional Liaison Officer to the Chairman.
NEH 54—Confidential Assistant to the Director, Institute of Museum Services.
NEH 58—Administrative Assistant to the Chairman.
NEH 59—Secretary to the Chairman.
NEH 60—General Counsel to the Chairman.
NEH 61—Special Assistant to the Chairman.
NEH 62—Administrative Assistant to the Deputy Chairman.

Section 213.3384 Department of Housing and Urban Development

HUD 6—Confidential Assistant to the General Counsel.
HUD 35—Senior Legislative Specialist to the Deputy Assistant Secretary for Legislation.
HUD 37—Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 39—Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 41—Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 45—Assistant for Congressional Relations to the Deputy Assistant Secretary for Legislation.
HUD 60—Supervisory Public Affairs Specialist to the Assistant Secretary for Public Affairs.
HUD 68—Executive Assistant to the Assistant Secretary for Community Planning and Development.
HUD 78—Special Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity.
HUD 120—Special Assistant (Speech Issues) to the Assistant Secretary for Public Affairs.
HUD 126—Special Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity.
HUD 135—Special Assistant to the General Deputy Assistant Secretary for Fair Housing and Equal Employment Opportunity.
HUD 143—Special Assistant to the Director, Executive Secretariat.
HUD 153—Executive Assistant to the President, Government National Mortgage Association.
HUD 160—Special Assistant to the Assistant Secretary for Policy Development and Research.
HUD 172—Special Assistant to the Director, Office of Indian Housing.
HUD 174—Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 175—Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations.
HUD 182—Special Assistant to the Assistant Secretary for Housing.
HUD 184—Senior Assistant for Congressional Relations to the Deputy Assistant Secretary for Legislation and Congressional Relations.
HUD 190—Executive Assistant to the General Deputy Assistant Secretary for Housing.
HUD 192—Special Assistant to the Secretary.
HUD 193—Executive Assistant to the General Counsel.
HUD 195—Special Assistant to the Assistant Secretary for Community Planning and Development.
HUD 198—Special Assistant to the Secretary.
HUD 199—Staff Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs.
HUD 203—Senior Legislative Specialist to the Deputy Assistant Secretary for Legislation.
HUD 206—Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations.
HUD 208—Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations.
HUD 209—Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations.
HUD 215—Executive Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs.
HUD 217—Special Assistant to the Deputy Assistant Secretary for Policy Development.
HUD 218—Executive Assistant to the Regional Administrator.
HUD 222—Staff Assistant to the Regional Administrator.
HUD 224—Special Assistant to the Regional Administrator.
HUD 226—Special Assistant to the Regional Administrator.
HUD 245—Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations.
HUD 247—Executive Assistant to the Assistant Secretary for Housing.
HUD 255—Executive Assistant to the Assistant Secretary for Policy Development and Research.
HUD 259—Special Assistant to the Secretary.
HUD 261—Special Assistant to the Secretary.
HUD 266—Special Assistant to the President, Government National Mortgage Association.
HUD 268—Executive Assistant to the Deputy Assistant Secretary for Policy, Financial Management and Administration.
HUD 274—Special Assistant to the Secretary.
HUD 275—Special Assistant to the Under Secretary.
HUD 276—Staff Assistant to the Assistant Secretary for Housing.
HUD 280—Special Assistant to the Assistant Secretary for Community Planning and Development.
HUD 281—Special Assistant to the Regional Administrator.
HUD 285—Senior Legislative Specialist to the Deputy Assistant Secretary for Legislation and Congressional Relations.
HUD 287—Special Assistant to the Regional Administrator.
HUD 289—Special Assistant to the Deputy Assistant Secretary for Program Policy Development and Evaluation.
HUD 292—Special Assistant to the Assistant Secretary for Community Planning and Development.
HUD 293—Staff Assistant to the President, Government National Mortgage Association.
HUD 312—Special Assistant to the Regional Administrator.
HUD 316—Special Assistant to the Regional Administrator.
HUD 318—Executive Assistant to the General Deputy Assistant Secretary for Public and Indian Housing.
HUD 322—Special Assistant to the Regional Administrator.
HUD 324—Special Assistant to the Regional Administrator.
HUD 325—Executive Assistant to the Assistant to the Secretary for Business Relations/Director, Office of Small and Disadvantaged Business Utilization.
HUD 329—Special Assistant to the Assistant Secretary for Labor Relations.
HUD 335—Special Assistant to the Assistant Secretary for Community Planning and Development.
HUD 336—Special Assistant (Advance) to the Assistant Secretary for Public Affairs.
HUD 337—Special Assistant (Speech Writer) to the Assistant Secretary for Public Affairs.
HUD 339—Special Assistant to the Regional Administrator.
HUD 341—Special Assistant to the

Secretary.
HUD 343—Special Assistant to the Regional Administrator.
HUD 345—Special Assistant to the Deputy Assistant Secretary for Single Family Housing.
HUD 346—Special Assistant to the Deputy Assistant Secretary for Operations and Management.
HUD 351—Special Assistant to the Regional Administrator.
HUD 354—Special Assistant to the Assistant Secretary for Public and Indian Housing.
HUD 356—Executive Assistant to the Regional Administrator.
HUD 359—Special Assistant to the Regional Administrator.
HUD 362—Staff Assistant to the Deputy Assistant Secretary for Housing.
HUD 363—Special Assistant to the Assistant Secretary for Policy Development and Research.
HUD 366—Special Assistant to the Assistant Secretary-Federal Housing Commissioner.
HUD 367—Special Assistant to the Regional Administrator.
HUD 370—Special Assistant to the Assistant Secretary for Public and Indian Housing.
HUD 373—Special Assistant (Speech Issues) to the Assistant Secretary for Public Affairs.
HUD 374—Executive Assistant to the Deputy Under Secretary for Field Coordination.
HUD 376—Special Assistant to the Regional Administrator.
HUD 377—Special Assistant to the Regional Administrator.
HUD 379—Assistant Director for Executive Secretariat Operations to the Executive Assistant to the Secretary.
HUD 382—Staff Assistant (Typing) to the Deputy Under Secretary for Intergovernmental Relations.
HUD 383—Special Assistant to the Regional Administrator.
HUD 384—Special Assistant to the Assistant Secretary for Public and Indian Housing.
HUD 385—Special Assistant (Speech Writer) to the Assistant Secretary for Public Affairs.
HUD 388—Supervisory Public Affairs Specialist to the Assistant Secretary for Public Affairs.
HUD 389—Associate Deputy Assistant Secretary for Policy Development and Research to the Assistant Secretary for Policy Development and Research.
HUD 390—Senior Legislative Specialist to the Deputy Assistant Secretary for Legislation.
HUD 392—Special Assistant for Community Relations to the Regional Administrator.
HUD 393—Associate Deputy Assistant Secretary for Demonstration Projects to the Deputy Assistant Secretary for Policy Development.
HUD 395—Special Assistant to the Regional Administrator.
HUD 396—Special Assistant to the Director, Office of Small and Disadvantaged Business Utilization.
HUD 398—Special Assistant to the Deputy Under Secretary for Field Coordination.
HUD 399—Special Assistant to the Executive Vice President, Government National Mortgage Association.
HUD 401—Special Assistant to the Deputy Assistant Secretary for Multifamily Housing.
HUD 402—Special Assistant to the Deputy Assistant Secretary for Single Family Housing.
HUD 403—Special Assistant to the Regional Administrator.
HUD 404—Special Assistant to the Regional Administrator.
HUD 405—Special Assistant to the Regional Administrator.
HUD 407—Executive Assistant to the Regional Administrator.
HUD 408—Special Projects Coordinator to the Deputy Assistant Secretary for Policy, Financial Management and Administration.
HUD 409—Special Advisor to the Deputy Assistant Secretary for Policy, Financial Management and Administration.

Section 213.3388 President's Commission on White House Fellows

PCWHF 2—Associate Director.
PCWHF 3—Special Assistant to the Director.
PCWHF 4—Confidential Assistant to the Director.

Section 213.3389 National Mediation Board

NMB 49—Special Assistant to the Chairman.
NMB 52—Confidential Assistant to a Member.
NMB 53—Confidential Assistant to a Member.
NMB 54—Confidential Assistant to a Member.

Section 213.3391 Office of Personnel Management

OPM 4—Special Assistant to the Assistant Director for Congressional Relations.
OPM 8—Confidential Assistant to the Director.
OPM 9—Confidential Assistant (Typing) to the General Counsel.
OPM 10—Staff Assistant to the Assistant Director for Public Affairs.
OPM 11—Staff Assistant to the Director, Office of Executive Administration.
OPM 17—Special Assistant to the Associate Director for Administration.
OPM 19—Special Assistant to the Associate Director for Administration.
OPM 21—Special Assistant to the Director, Office of Public Affairs.
OPM 24—Special Assistant to the Director, Office of Government Ethics.
OPM 25—Special Assistant to the Director, Office of Congressional Relations.
OPM 26—Confidential Assistant (Typing) to the Director, Office of Government Ethics.
OPM 28—Congressional Relations Officer to the Assistant Director for Congressional Relations.
OPM 29—Special Assistant to the Director.
OPM 30—Special Assistant to the Director, Office of Public Affairs.
OPM 31—Staff Assistant to the Counselor to the Director.
OPM 32—Confidential Assistant (Typing) to the Deputy General Counsel.
OPM 33—Confidential Assistant to the Assistant Director for Congressional Relations.
OPM 34—Special Assistant to the Director, Office of Public Affairs.

Section 213.3392 Federal Labor Relations Authority

FLRA 1—Staff Assistant (Steno) to the Chairman.
FLRA 8—Staff Assistant to a Member.
FLRA 9—Special Assistant to the General Counsel.
FLRA 10—Deputy for Congressional Affairs, Public Information and Administration to the Chairman.
FLRA 12—Confidential Assistant to the Chairman.

Section 213.3393 Pension Benefit Guaranty Corporation

PBGC 1—Staff Assistant to the Executive Director.
PBGC 6—Staff Assistant to the Executive Director.

Section 213.3394 Department of Transportation

DOT 1—Staff Assistant to the Secretary.
DOT 3—Staff Assistant to the Secretary.

DOT 14—Chauffeur to the Secretary.
DOT 38—Special Assistant to the Administrator, National Highway Traffic Safety Administration.
DOT 43—Confidential Assistant to the Administrator, Saint Lawrence Seaway Development Corporation.
DOT 54—Congressional Liaison Officer to the Director, Office of Congressional Affairs.
DOT 55—Congressional Liaison Officer to the Director, Office of Congressional Affairs.
DOT 56—Special Assistant to the Administrator, Saint Lawrence Seaway Development Corporation.
DOT 57—Confidential Assistant to the Assistant Secretary for Governmental Affairs.
DOT 60—Congressional Liaison Officer to the Director, Office of Congressional Affairs.
DOT 69—Supervisory Public Affairs Specialist to the Administrator, Federal Railroad Administration.
DOT 77—Special Assistant to the Assistant Secretary for Public Affairs.
DOT 100—Supervisory Public Affairs Specialist to the Director, Office of Public and Consumer Affairs, National Highway Traffic Safety Administration.
DOT 105—Secretary (Steno) to the Administrator, Federal Highway Administration.
DOT 115—Special Assistant to the Assistant Administrator for Public Affairs, Federal Aviation Administration.
DOT 121—Deputy Director, Office of Congressional Affairs to the Director of Congressional Affairs.
DOT 122—Special Assistant to the Director, Executive Secretariat.
DOT 126—Director, Office of Public Affairs, to the Administrator, Federal Highway Administration.
DOT 127—Special Assistant to the Assistant Secretary for Budget and Programs.
DOT 128—Special Assistant to the Administrator, Federal Highway Administration.
DOT 142—Intergovernmental Liaison Specialist to the Director, Office of Intergovernmental and Consumer Affairs.
DOT 143—Staff Assistant to the Deputy Administrator, Federal Railroad Administration.
DOT 148—Director, Office of Media Relations to the Assistant Secretary for Public Affairs.
DOT 150—Special Assistant to the Administrator, National Highway Traffic Safety Administration.
DOT 153—Congressional Liaison Officer to the Director, Office of Congressional Affairs.
DOT 157—Secretary (Steno) to the Associate Administrator for Policy and International Aviation, Federal Aviation Administration.
DOT 158—Confidential Secretary to the General Counsel.
DOT 175—Special Assistant to the Assistant Secretary for Policy and International Affairs.
DOT 192—Special Assistant to the Director, Office of Small and Disadvantaged Business Utilization.
DOT 198—Special Assistant to the Administrator, Federal Highway Administration.
DOT 203—Staff Assistant to the Assistant Secretary for Governmental Affairs.
DOT 207—Staff Assistant to the Inspector General.
DOT 208—Director, Executive Secretariat to the Administrator, Urban Mass Transportation Administration.
DOT 209—Special Assistant to the Administrator, Urban Mass Transportation Administration.
DOT 216—Confidential Special Assistant to the Administrator, Federal Aviation Administration.
DOT 218—Staff Assistant to the Director, Office of Congressional Affairs.
DOT 219—Executive Officer to the Director, Executive Secretariat.
DOT 220—Chief, Minority Business Resource Center to the Director, Small and Disadvantaged Business Utilization.
DOT 223—Policy Advisor to the Administrator, National Highway Traffic Safety Administration.
DOT 224—Special Assistant to the Administrator, Urban Mass Transportation Administration.
DOT 225—Special Assistant to the Regional Representative.
DOT 228—Special Assistant to the Associate Administrator for Budget and Policy, Urban Mass Transportation Administration.
DOT 229—Staff Assistant to the Administrator, Maritime Administration.
DOT 231—Policy Advisor to the Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration.
DOT 232—Special Assistant to the Regional Administrator, Urban Mass Transportation Administration.
DOT 233—Special Assistant to the General Counsel.
DOT 237—Special Assistant to the Assistant Secretary for Public Affairs.
DOT 239—Executive Assistant to the Administrator, Maritime Administration.
DOT 240—Special Assistant to the Assistant Administrator for Public Affairs, Federal Aviation Administration.
DOT 243—Special Assistant to the Assistant Secretary for Public Affairs.
DOT 244—Deputy Executive Secretary for Management to the Director, Executive Secretariat.
DOT 250—Staff Assistant to the Assistant Secretary for Governmental Affairs.
DOT 251—Staff Assistant to the Administrator, Maritime Administration.
DOT 252—Director, Executive Secretariat, to the Administrator, National Highway Traffic Safety Administration.
DOT 253—Intergovernmental Affairs Coordinator to the Administrator, Federal Railroad Administration.
DOT 256—Staff Assistant to the Coordinator for Minority Affairs.
DOT 258—Deputy Director, Office of Intergovernmental Affairs.
DOT 263—Special Assistant to the Administrator, Saint Lawrence Seaway Development Corporation.
DOT 268—Staff Assistant to the Assistant Secretary for Public Affairs.
DOT 269—Research Assistant to the Director, Executive Secretariat.
DOT 274—Special Assistant to the Assistant Secretary for Public Affairs.
DOT 276—Special Assistant to the Administrator, Research and Special Programs Administration.
DOT 277—Special Assistant to the Deputy Administrator, Urban Mass Transportation Administration.
DOT 278—Staff Assistant to the Deputy Secretary.
DOT 281—Special Assistant for Intergovernmental Relations to the Administrator, Saint Lawrence Seaway Development Corporation.
DOT 282—Confidential Staff Assistant to the Deputy Administrator, Federal Aviation Administration.
DOT 287—Staff Assistant to the Deputy Secretary.
DOT 288—Deputy Director of Community and Consumer Affairs.
DOT 291—Director, Office of Special Projects to the Assistant Secretary for Public Affairs.
DOT 292—Intergovernmental Liaison Officer to the Director, Office of Intergovernmental and Consumer Affairs.
DOT 294—Special Assistant to the

Associate Deputy Secretary.
DOT 295—Staff Assistant to the Associate Deputy Secretary.
DOT 296—Special Assistant to the Director, Office of External Affairs.

Section 213.3395 Federal Emergency Management Agency

FEMA 3—Director of Congressional Affairs.
FEMA 29—Special Assistant to the Associate Director, State and Local Programs and Support Directorate.
FEMA 33—Director, Office of Regional Operations to the Director.
FEMA 34—Executive Assistant to the Deputy Director.
FEMA 35—Confidential Staff Assistant to the Director, Office of External Affairs.
FEMA 36—Confidential Assistant to the Associate Director, Emergency Operations Directorate.
FEMA 37—Confidential Staff Assistant to the Director, Office of External Affairs.

Section 213.3396 National Transportation Safety Board

NTSB 1—Special Assistant to a Board Member.
NTSB 2—Secretary (Typing) to the Chairman.
NTSB 30—Confidential Assistant to the Chairman.
NTSB 31—Confidential Assistant to a Board Member.
NTSB 32—Confidential Assistant to a Board Member.
NTSB 33—Confidential Assistant to a Board Member.
NTSB 92—Government and Public Affairs Officer to the Managing Director.
NTSB 98—Special Assistant to the Vice-Chairman.
NTSB 102—Special Assistant and Counsel to the Chairman.
NTSB 104—Special Assistant to a Board Member.
NTSB 105—Special Assistant to the Chairman.

Section 213.3398 Architectural and Transportation Barriers Compliance Board

ATBCB 1—Executive Assistant to the Chairman.

U.S. Office of Personnel Management.
James E. Colvard,
Deputy Director.

Authority: 5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 219

[FR Doc. 87–18044 Filed 8–11–87; 8:45 am]
BILLING CODE 6325–01–M

Information Collection Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, Chapter 35), this notice announces a request to extend a public information collection. Standard Form 87, Fingerprint Chart, is completed by applicants for Federal positions throughout the Government. OPM uses the information to conduct checks of the FBI fingerprint files as required by Executive Order 10450, Security Requirements for Government Employment, issued April 27, 1953, or various public laws. These checks are part of background investigations conducted for the purpose of determining suitability for Federal employment/security clearance. It is estimated that 51,000 individuals will respond annually for a total burden of 10,200 hours. For copies of this proposal call William C. Duffy, Agency Clearance Officer, on (202) 632–7714.

DATE: Comments on this proposal should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to—

William C. Duffy, Agency Clearance Officer, Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415.

and

Richard Eisinger, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Peter Garcia, (202) 632–6181.

U.S. Office of Personnel Management.
James E. Colvard,
Deputy Director.

[FR Doc. 87–18305 Filed 8–11–87; 8:45 am]
BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–15906; File No. 812–6766]

Appplication; IDS Life Insurance Company of New York, IDS Life of New York Account 8, and Shearson Lehman Brothers Inc.

August 4, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: IDS Life Insurance Company of New York ("IDS Life of New York"), IDS Life of New York Account 8 ("Variable Account") and Shearson Lehman Brothers Inc. ("Shearson Lehman") (collectively, the "Applicants").

RELEVANT 1940 ACT SECTIONS AND RULES: Exemption requested pursuant to section 6(c) and 17(b) from sections 2(a)(32), 12(d)(1), 17(a), 22(c), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the 1940 Act and Rules 6e–3(T)(b)(12), 6–3e(T)(b)(13), 6e–3(T)(c)(2) and 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to the extent necessary to permit the offering of flexible premium variable life insurance contracts. Specifically, Applicants seek the relief necessary to permit (1) the definition of the term "Incidental Insurance Benefits" in Rule 6e–3(T)(c)(2) to include the policy's rider for a Waiver of Monthly Deduction for Total Disability (the "Rider"), (2) the assessment of certain Contingent Deferred Issue and Administrative Expense Charges, and (3) the Variable Account to invest in the securities of the Shearson Lehman Brothers Stripped ("Zero Coupon") U.S. Treasury Securities Fund, Series A.

FILING DATE: The application was filed on June 23, 1987.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on August 29, 1987. Request a hearing in writing giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notifications of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. IDS Life Insurance Company of New York and the Variable Account, 14 Computer Drive West, Albany, New York 12205; Shearson Lehman Brothers Inc., 2 World Trade Center, New York, NY 10045.

FOR FURTHER INFORMATION CONTACT: Lewis B. Reich, Special Counsel (202)

272-2061, or Clifford E. Kirsch, Staff Attorney, (202) 272-3032.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300.

Applicants' Representations and Arguments

1. The Variable Account is a separate account of IDS Life of New York. Its subaccounts invest their assets in corresponding portfolios of IDS Life Series Fund, Inc. ("the Fund") or in units of Shearson Lehman Brothers Stripped ("Zero Coupon") U.S. Treasury Securities Fund ("the Trust"). IDS Life of New York is planning on issuing certain Flexible Premium Variable Life Insurance contracts ("Contracts") through the Variable Account.

2. During the first 10 contract years and during the first 10 years following any requested increase in Specified Amount, IDS Life of New York will make a Surrender Charge if the owner surrenders the Contract or the Contract lapses. The Surrender Charge has two parts—the Contingent Deferred Issue and Administrative Expense Charge and the Contingent Deferred Sales Charge. The Contingent Deferred Issue and Administrative Expense Charge reimburses IDS Life of New York for expenses incurred in issuing the Contract such as processing the application (primarily underwriting) and setting up computer records. The maximum Contingent Deferred Sales Charge and the maximum Contingent Deferred Issue and Administrative Expense Charge for the Initial Specified Amount or any requested increase in Specified Amount will be determined on the Contract Date or on the effective date of any such requested increase, as the case may be. In general, these maximum charges remain level for the first five years in the relevant 10-year period, and then reduce in equal monthly increments until they become zero at the end of 10 years.

Definition of Incidental Insurance Benefits

3. Applicants seek relief from Rule 6e-3(T)(c)(2) which defines the term "incidental insurance benefits" to mean insurance benefits that do not vary in amount in accordance with the investment experience of a separate account. Under the Contract, the Contractowner will have the option to elect coverage under the Rider, which provides that in the event of the total disability of the insured, as defined in the Rider, IDS Life of New York will waive the monthly deduction for the cost of insurance, Policy Fee, the cost of any riders, and the death benefit guarantee charge for the next Contract month.

4. In significant respects, the coverage provided by the Rider is a fixed benefit. Under the Rider, IDS Life of New York's obligation to waive the monthly cost of insurance charge, the Contract Fee, the cost of any riders and the death benefit charge for the next contract month is a fixed obligation, and the benefit will be provided irrespective of the investment experience of the Subaccounts (i.e., the monthly cost of insurance charge, the Contract Fee, the cost of any riders and the death benefit charge for the next contract month will be waived regardless of how much the net amount at risk varies).

Contingent Deferred Issue and Administrative Expense Charge

5. The cost-based Issue and Administrative Expense Charge reimburses IDS Life of New York for administrative costs it incurs in issuing the Contract. The maximum amount of this charge is equal to $4 times the number of thousands of dollars of Specified Amount.

6. Applicants submit that imposition of the Issue and Administrative Expense Charge in the form of a deferred charge as part of the Surrender Charge is much more favorable to the Contractowner than the deduction of this charge from premiums paid—the conventional way of imposing such charges. First, the amount of the Contractowner's investment in the Subaccounts is not reduced as it would be if this charge were taken in full in the first Contract Year. Second, the total amount charged to any Contractowner is no greater than it would be if these charges were taken in full in the first Contract Year. Finally, the fact that the entire amount of the charge was not deducted initially will favorably affect the amount of the Death Benefit under Option 2 since cash value will be greater.

7. Applications represent that the Issue and Administrative Expense Charge is the same amount as would have been imposed under the Contract if the expenses of issuing the Contract had been recovered through a front-end charge. In particular, Applicants represent that the Issue and Administrative Expense Charge does not take into account the time value of money (which would increase the charge to factor in the investment cost to IDS Life of New York of deferring the charge). Applicants represent that the Issue and Administrative Expense Charge does not take into account the likelihood that not all Contractowners will lapes or surrender their policies or that some Contractowners may redeem later than others (which would increase the charge for those surrending or lapsing over what they would have paid had all Contractowners been required to pay the Issue and Administrative Expense Charge at the time the Contract is issued.)

The Zero Fund

Operation

8. The Zero Fund is registered under the Act and comprises multiple unit investment trust ("Trust"), each Trust containing U.S. Treasury securities which have been stripped of their unmatured interest coupons, interest coupons which have been stripped from U.S. Treasury securities, and receipts and certificates for such stripped obligations and stripped coupons. The Variable Account will purchase units of each Trust based upon the net transactions by owners. Applicants state that the total offering price of Zero Fund units placed in the Variable Account, whether they are sold to the Variable Account in the primary or secondary market, will include a "transaction charge" paid directly by IDS Life of New York to Shearson Lehman. The Variable Account will not directly pay that charge; instead IDS Life of New York will pay an amount to Shearson Lehman out of its general account assets to compensate Shearson Lehman as the sponsor and principal underwriter of the Zero Fund. Applicants state that the transaction charge ranges from 0.5-2.0 percent of the offering price, depending upon the maturity of the Trusts for which securities are purchased. Thereafter, IDS Life of New York will seek to be reimbursed for the amounts advanced by assessing a charge on the assets of the Variable Account held in the Subaccounts investing in the Zero Fund.

Asset Charge

9. IDS Life of New York and the Variable Account seek relief from the provisions of section 12(d)(1) to allow the Variable Account to acquire the units of the Zero Fund and from sections 26(a)(2) and 27(c)(2) to the extent necessary to permit IDS Life of New York to recover through an asset charge amounts paid by it to Shearson Lehman in connection with acquisition of Zero Fund units. Applicants state the amount of this asset charge is equivalent to an effective annual rate of .25 percent of the account value. This amount may be

increased in the future but in no event will it exceed an effective annual rate of .50 percent of account value.

10. Applicants state that the asset charge is not designed as reimbursement of distribution expenses or to compensate IDS Life of New York for sales efforts, and that the amount of the transaction fee is the same as a charge negotiated at arm's length and imposed by Shearson Lehman as sponsor and market-maker for a unit investment trust in a non-affiliated venture identical in all material respects to the venture described in the application. Applicants believe that having IDS Life of New York pay the transaction charge, with reimbursement by the Variable Account through the asset charge, is desirable in that allocating a proportionate share of the acquisition expenses to all owners who allocate premiums to the Subaccounts of the Variable Account investing in the Zero Fund, rather than permitting the expenses borne by individual owners to vary based upon the timing of their particular allocation (as would be the case if the Variable Account paid the transaction charge directly), benefits owners by stabilizing yield and by creating more equitable results among owners.

11. Applicants assert that it is appropriate to recover interest costs through deduction of the proposed asset charge. IDS Life of New York expects to advance large amounts in the early years in connection with the purchase of units of interests in the Zero Fund, but considerably less in later years because purchases of units (and transaction charges) will diminish since later purchases by owners will be offset by redemptions. Because the asset charge will be designed to recover these charges over the life of each of the Trusts (thus spreading the costs among owners purchasing early in the life of each Trust and those purchasing later), Applicants represent that a significant portion of the costs to IDS Life of New York is the loss of interest on monies advanced caused by the delay in recovery. Given that IDS Life of New York anticipates recovery of the transaction costs over the life of each Trust, Applicants believe that a rate of interest associated with the weighted average maturity of the bonds held by the Trust is the fair and reasonable measure of the time value of the monies advanced by IDS Life of New York. Applicants represent that as to each subaccount of the Variable Account, the rate of interest will be applied to the amounts by which the transaction charges for the subaccount for each quarter exceed the asset charges collected as reimbursement for such charges, plus any amounts (including interest) that were unrecovered at the end of the prior quarter. Applicants further represent that IDS Life of New York will monitor the cumulative amounts collected for each subaccount through this asset charge in comparison with the amounts paid by IDS Life of New York and will not charge any subaccount of the Variable Account more than actual costs.

Affiliated Transactions

12. Applicants request exemption from section 17(a) of the Act to permit the proposed transactions between Shearson Lehman and the Variable Account. Applicants state that all the outstanding voting stock of Shearson Lehman and IDS Life of New York is beneficially owned by American Express Company, and thus Shearson Lehman and the Variable Account are affiliated persons within section 2(a)(3) of the Act. Applicants assert, however, that the conditions set forth in sections 6(c) and 17(b) for the granting of an exemptive order are met under the proposed transactions between Shearson Lehman and the Variable Account.

13. Applicants assert that the consideration the Variable Account will pay Shearson Lehman upon the purchase of Trust units, including, indirectly, the transaction charge, will be fair and reasonable and will not involve overreaching on the part of any person concerned. According to the application, the price at which the Variable Account will purchase and resell units from and to Shearson Lehman will be based upon the offering side evaluation of the underlying securities. Applicants state that a qualified independent evaluator [1] will determine the offering side valuation of the underlying securities for any purchase or sale of units by the Variable Account and that market prices for the underlying securities are usually readily available. Applicants assert that as a result of this independent evaluation of the worth of the underlying securities, the Variable Account will be buying and selling units from Shearson Lehman at a price determined to be at "market," and this evaluation should eliminate any possibility that Shearson Lehman would sell units to the Variable Account at an inflated price or purchase units from the Variable Account at a price below their market value. Applicants state that the presence of Shearson Lehman as market maker enables the Variable Account to receive a better price for units it sells than it might otherwise receive if Shearson Lehman were not standing ready and able to purchase the units at a price based on the offering side of the market. Applicants further state that Shearson Lehman will not be able to influence the Variable Account to purchase or sell units the Variable Account would not otherwise have purchased or sold. The Variable Account that correspond to a Trust. Similarly, the Variable Account will only purchase units from Shearson Lehman as owners choose to direct their purchase payments for Contracts or cash value of existing Contracts to subaccounts of the Variable Account will only sell units when owners surrender their Contract, reallocate cash value from those subaccounts, or make a Contract loan.

14. Applicants note that while IDS Life of New York and Shearson Lehman are affiliated persons, they have separate management and each is operated as a separate "profit center." Applicants represent that the compensation of sales persons selling the Contracts is not dependent upon nor affected by the particular investment vehicle or vehicles to which owners allocate the premiums for or the cash value of the Contracts. Applicants therefore assert that such sales persons are not expected to have a preference as to which investment vehicle or vehicles owners select under the Contract.

15. Applicants represent that if and to the extent the final version of Rule 6e–3 (or any other rule adopted as the final version of Rule 6e–3(T)) imposes on the granting of exemptive relief of the nature requested in this application terms or conditions different from any exemptive relief granted them as a result of this application, they will take all necessary steps to comply with the final version of Rule 6e–3 (or any other rule adopted as the final version of Rule 6e–3(T)).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–18356 Filed 8–11–87; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicants state that the evaluator is not affiliated with Shearson Lehman or IDS Life of New York, nor is the evaluator an affiliate of an affiliate of Shearson Lehman or IDS Life of New York, nor will any successor evaluator for the Zero Fund be so affiliated.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 87-8-14]

Fitness Determination of Springdale Air Service, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 87-8-14, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find that Springdale Air Service, Inc., is 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, Room 6420, Department of Transportation, 400 7th Street, SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than August 21, 1987.

FOR FURTHER INFORMATION CONTACT: Barbara P. Dunnigan, Air Carrier Fitness Division, Department of Transportation, 400 7th Street, SW., Washington, DC 20590, (202) 366-2342.

Dated: August 6, 1987.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-18347 Filed 8-11-87; 8:45 am]

BILLING CODE 4910-62-M

[OST Docket No. 22; Notice No. 87-16]

Standard Time Zone Boundaries; Operating Exception for the Burlington Northern Railroad

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Operating Exception.

SUMMARY: The Burlington Northern Railroad is granted an exception from the standard time of the time zones created by Congress. The exception permits operation under mountain time from Texline to Amarillo, Texas, despite the fact that the area is in the central time zone. It does not, however, permit the railroad in its public schedule and notices to show the area as being in other than the central time zone.

EFFECTIVE DATE: August 12, 1987.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel (C-50), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590; (202) 366-9306.

SUPPLEMENTARY INFORMATION: Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260-64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. She also has authority (delegated to the General Counsel) to grant to a railroad an exception from the time zones to permit for internal purposes only operation of a railroad line on one time, despite the fact that it crosses a time zone boundary. Where there is less confusion, railroad operations are less hazardous and more efficient.

The request. The Burlington Northern Railroad Company has formally requested that it be granted an operating exception permitting internal operation of its line between Pueblo, Colorado to Amarillo, Texas, on mountain time. This railroad line is currently bisected by the time zone boundary between central and mountain time at Texline, Texas. Control of trains on this line is now in a single dispatching territory and under the control of one dispatching office, which is located in the mountain time zone. The railroad stated that its personnel are experiencing confusion in understanding and implementing train orders. Directions to track, bridge, and building forces, and to signal and communications employees along the line in question, are also subject to some confusion and misunderstanding. BN stated that the confusion relates primarily to the effective times of such orders and directives.

It alleged that misunderstanding of the times that orders and directives are to be observed could lead to dangerous operating and working conditions. Burlington Northern therefore requested DOT to grant an operational exception that would move the existing operational time zone boundary eastward to Amarillo, Texas. Amarillo is the division point between Burlington Northern's Colorado and Fort Worth Division, and the boundary between dispatching districts. BN noted that Amtrack trains do not operate on the line from Pueblo, Colorado, to Amarillo, Texas, and therefore, the change should have no effect on the public in general.

Decision. Time zone boundaries were created in the United States by the railroads about a hundred years ago to reduce the hazards resulting from confusion over time zone boundaries and to improve scheduling. For example, when two trains use the same track, one must be put in a siding to let the other pass. Knowing what time each train is to reach a certain point is therefore necessary for safety. DOT's experience indicates that confusion about the precise time of train orders and similar railroad directives can cause hazardous conditions. The exception is therefore granted. This exception does not, however, permit the railroad in its public schedule and notices to show the area as being in other than the central time zone. The grant of the exception does not affect the public since it only affects internal operations of the railroad.

Authority: Act of March 19, 1918, as amended by the Uniform Time Act of 1966 and Pub. L. 97-449, 15 U.S.C. 260-64; 49 CFR 1.157(b).

Issued in Washington, DC, on August 6, 1987.

B. Wayne Vance,

General Counsel.

[FR Doc. 87-18419 Filed 8-11-87; 8:45 am]

BILLING CODE 4910-62-M

[Docket 37554]

Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), Pub. L. 96-192, requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seatmile. Order 80-2-69 established the first interim SFFL and Order 87-6-31 set the currently effective two-month SFFL applicable through July 31, 1987.

In establishing the SFFL for the two-month period beginning August 1, 1987, we have projected nonfuel costs based on the year ended March 31, 1987 data, and have determined fuel prices on the basis of the latest experienced monthly fuel cost levels as required to the Department.

By Order 87-8-15 fares may be increased by the following factors over the October 1, 1979, level:

Atlantic, 1.0589.
Latin America, 1.1028.
Pacific, 1.5654.
Canada, 1.1145.

FOR FURTHER INFORMATION CONTACT: Julien R. Schrenk, (202) 366-2441.

By the Department of Transportation.

Dated: August 6, 1987.

Vance Fort,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-18348 Filed 8-11-87; 8:45 am]

BILLING CODE 4910-62-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Elaina Norden, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: August 5, 1987.

By direction of the Administrator.

David A. Cox,

Associate Deputy Administrator for Management.

Extension

1. Department of Veterans Benefits
2. VA Request for Determination of Reasonable Value/HUD Application for Property Appraisal and Commitment
3. VA Form 26-1805
4. This information is needed to determine the reasonable value of properties proposed as security for guaranteed or direct home loans and to require minimum property standards.
5. On occasion
6. Individuals or households
7. 793,210 responses
8. 158,642 hours
9. Not applicable

[FR Doc. 87-18245 Filed 8-11-87; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; New System of Records

The Privacy Act of 1974 (5 U.S.C. 522a(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Veterans Administration is adding a new system of records entitled "PROS/KEYS User Permissions Data Base (67VA30)".

The purpose of the new system of records is to collect, store and retrieve general information about remote users of the Veterans Administraiton Data Processing Center in Austin, Texas. This information will be used to protect automated data processing system resources and copies of production data from intrusion and misuse by unauthorized individuals. The system contains hard copy and magnetic media storage of names, addresses, telephone numbers, VA employee numbers (SSN), and listings of data files and system permisisons. These data will be used to document and verify files and systems that an individual is permitted to access.

A "Report of Intention to Publish a Federal Register Notice of New System of Records" and an advance copy of the new system notice have been provided to the Speaker of the House, the President of the Senate, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), as required by the provisions of 5 U.S.C. 552a(o) and the Privacy Act Guidelines issued by OMB on October 3, 1975 (40 FR 45877).

Release of information from these records will only be made in accordance with the provisions of the Privacy Act of 1974 for the investigatory, judicial, and administrative uses as listed in the body of this Notice. The VA has determined that release of information for these purposes is a necessary and proper use of information in this system of records and that specific routine uses for transfer of this information are appropriate.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed system of records to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All relevant material received before August 27, 1987 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until September 10, 1987. Any persons visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the above address and room number.

If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the **Federal Register** by the Veterans Administration, the routine use statements included herein are effective September 10, 1987.

Approved: July 28, 1987.

Thomas K. Turnage,

Administrator.

67VA30

SYSTEM NAME:

"PROS/KEYS User Permissions Data Base (67VA30)."

SYSTEM LOCATION:

Hard copy records are maintained in the Office of Information Systems and Telecommunications, Directorate for Operations Management, ADP Support Staff, Interactive Support Division (32C), VA Central Office, Washigton, D.C. 20420. Magnetic Records are maintained by the Veterans Adminstration Data Processing Center, 1615 East Woodward Street, Austin, Texas 78772.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Veterans Administration employees and authorized vendors who have requested and been granted access to the resources of the VA Data Processing Center, Austin, Texas.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in the records) may include: (1) Names of individuals who have requested and been granted access to the resources of the VA Data Processing Center, Austin, Texas; (2) the individuals' job title and Veterans Administration employee number or Social Security number; (3) the individual's office address and phone number; (4) information relating to data file and computer system access permissions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, 210(c).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

2. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

3. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

4. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

5. By the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

6. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

7. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

8. Any information in this system may be disclosed to a Federal grand jury, Federal court or a party in litigation, or a Federal agency or party to an administrative proceeding being conducted by a Federal agency, in order for the VA to respond to and comply with the issuance of a Federal subpoena.

9. Any information in this system may be disclosed to a State or municipal grand jury, a State or municipal court or a party in litigation, or to a State or municipal administrative agency functioning in a quasi-judicial capacity or a party to a proceeding being conducted by such an agency, in order for the VA to respond to and comply with the issuance of a State or municipal subpoena; provided, that any disclosure of information made under this routine use must comply with the provisions of 38 CFR 1.511.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Office of Information Systems and Telecommunications, Directorate for Operations Management, ADP Support Staff, Interactive Support Division (32C), VA Central Office, Washington, D.C. 20420 retains original signed copies of requests for system and data file permissions. These documents are retained in a locked filing cabinet with a one hour burn rating. Data files supporting the automated system are stored in a secured area located at the Veterans Administration Data Processing Center, 1615 East Woodward Street, Austin, Texas 78772. Data files are stored on magnetic disk and, for archival purposes, on magnetic tape.

RETRIEVABILITY:

Paper records are maintained in alphabetical order by the last name of the requester. Access to the automated system is via computer terminal. Standard security precautions are used to prohibit access to only authorized personnel.

SAFEGUARDS:

Paper records are maintained in a manned room during working hours. During non-working hours, there is limited access to the building with visitor control by security personnel; the room where the paper records are kept is locked, and the filing cabinet is secured with a built-in combination lock. Access to the records is on a need-to-know basis only. The automated system is protected by a generalized system security facility and by specific security techniques used within the application that accesses the data file. Access to the system is controlled by both the Interactive Support Division (32C) and the Austin Data Processing Center staff responsible for remote user support (200/40).

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with the records disposal authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Director (30), Office of Information Systems and Telecommunications, VA Central Office, Washington, D.C. 20420.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained by the Office of Information Systems and Telecommunications under his or her name or other personal identifier or who wants to determine the contents of such records should submit a written request or apply in person to the Office of the Director (30).

RECORD ACCESS PROCEDURES:

An individual who seeks access or wishes to contest records maintained under his or her name or other personal identifier may write or call or visit the Office of the Director.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

Individuals who have applied for and been granted access permissions to the resources of the Austin Data Processing Center.

[FR Doc. 87-18246 Filed 8-11-87; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 155
Wednesday, August 12, 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).

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Monday, August 10, 1987 at 10:00 a.m.

PLACE: Room 117, 701 E Street NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints:
   1. Drill Indexes (Docket Number 1405).
   2. Toggle Clamps for Clamping, Fixturing, Processing, Original Equipment Manufacturing (Docket Number 1406).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,

Secretary.

July 31, 1987.

[FR Doc. 87–18413 Filed 8–7–87; 4:28 pm]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Wednesday, August 19, 1987 at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints:
   Certain Nonwoven Gas Filter Elements (Docket Number 1411).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

Kenneth R. Mason,

Secretary.

August 4, 1987.

[FR Doc. 87–18414 Filed 8–7–87; 4:28 pm]

BILLING CODE 7020-02-M

NATIONAL SCIENCE BOARD

DATE AND TIME: August 21, 1987—

8:30 a.m. Closed Session
8:45 a.m. Open Session

PLACE: National Science Foundation Washington, D.C.

STATUS:

Most of this meeting will be open to the public.
Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED AUGUST 21:

Closed Session (8:30–8:45 a.m.)

1. Minutes—June 1987 Meeting
2. NSB and NSF Staff Nominees
3. Grants, Contracts, and Programs

Open Session (8:45–11:30 a.m.)

4. Grants, Contracts and Programs
5. Chairman's Report
6. Minutes—June 1987 Meeting
7. Director's Report
8. Fiscal Year 1989 NSF Budget
9. Presentation on Supernova 1987A
10. Other Business

Thomas Ubois,

Executive Officer.

[FR Doc. 87–18482 Filed 8–10–87; 1:10 pm]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, August 18, 1987.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Marine Accident Report—Fires on Board the Panamanian Tankship SHOUN VANGUARD and the U.S. Tank Barge HOLLYWOOD 3013, Deer Park, Texas, October 7, 1986.
2. Reconsideration of Probable Cause: Marine Accident Report—Near Capsizing of the Charter Passenger Vessel MERRY JANE Bodega, California, February 8, 1986.

FOR MORE INFORMATION CONTACT: Bea Hardesty, Federal Register Liaison Officer.

Bea Hardesty,

Federal Register Liaison Officer.

August 7, 1987.

[FR Doc. 87–18444 Filed 8–10–87; 10:36 am]

BILLING CODE 7533-01-M

Corrections

Federal Register
Vol. 52, No. 155
Wednesday, August 12, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 795

[OPTS-42088A; FRL 3208-9]

Solid Waste Chemicals; Proposed Test Rule

Correction

In proposed rule document 87-12107 beginning on page 20336 in the issue of Friday, May 29, 1987, make the following corrections:

§ 795.54 [Corrected]

1. On page 20354, in § 795.54(b)(1)(iii), in the second column, in the seventh line from the top, "obtaining" should read "obtained".

2. On page 20355, in § 795.54(c)(1)(i), in the second column, in the second line, "$^{14}CO_4$" should read "$^{14}CH_4$".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement No. 13670-871]

National Resource Center on Child Sexual Abuse

Correction

In notice document 87-17751 beginning on page 29150 in the issue of Wednesday, August 5, 1987, make the following correction:

On page 29153, in the second column, in the 11th line the date should read "July 20, 1987".

BILLING CODE 1505-01-D

UNITED STATES INFORMATION AGENCY

1988-89 Fulbright Teacher Exchange Program

Correction

In notice document 87-17150 appearing on page 28414 in the issue of Wednesday, July 29, 1987, make the following correction:

In the second column, in the fifth complete paragraph, the telephone number in the last two lines should read "(202) 485-2555".

BILLING CODE 1505-01-D

Federal Register

Wednesday
August 12, 1987

Part II

Environmental Protection Agency

40 CFR Part 268

Hazardous Waste Management System; Land Disposal Restrictions; California List Constituents; Notice of Availability and Request for Comments

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[SWH-FRL-32409]

Hazardous Waste Management System; Land Disposal Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Data Availability and Request for Comment.

SUMMARY: The Environmental Protection Agency is today presenting data and information relating to issues initially noticed for public comment in the December 11, 1986 "California list" land disposal restrictions proposal (51 FR 44714). This information relates to the issues of whether or not to lower the prohibition levels for California list metal-bearing and cyanide-containing wastes, what the lower prohibition levels might be, what treatment standard would be appropriate for these wastes, and whether sufficient national capacity exists to treat these wastes to achieve such standards. This notice provides treatment data corroborating that existing treatment technologies can achieve the suggested prohibition levels for California list metal and cyanide wastes. In addition, the notice includes estimates on the volume of metal and cyanide wastes that would require alternative treatment capacity, and requests additional data and comments on the volumes of wastes that would be affected if EPA lowers the prohibition levels. Furthermore, the Agency is seeking comment on existing treatment capacity and on the time needed to develop new capacity.

This action relates to the requirements of section 3004(d) of the Resource Conservation and Recovery Act (RCRA) which directs EPA to substitute more stringent concentration levels where necessary to protect human health and the environment. The information and comments we receive will be used to aid the Agency in developing final regulations to implement land disposal prohibitions for California list metal and cyanide wastes.

Today's notice also solicits comment on the issue of appropriate pocedures for processing requests for § 268.44 variances from the treatment standard.

DATE: Comments on this notice of data availability and request for comment must be received on or before October 13, 1987.

ADDRESSES: The public must send an original and two copies of their comments to EPA RCRA Docket (S–212), Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Place the Docket Number F–87–LDR6–FFFFF on your comments. The OSW docket is located at: EPA RCRA Docket (LG–100) 401 M Street, SW., Washington, DC 20460. The docket is open from 9:00 a.m. to 4:00 p.m. Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials. Call at 475–9327 for appointments. The public may copy a maxium of 50 pages of material from any one regulatory docket at no cost. Additional copies cost $.20/page.

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

For information on specific aspects of this notice, contact: William B. Fortune, or Stephen R. Weil, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–4770.

SUPPLEMENTARY INFORMATION:

I. Background

On December 11, 1986 (51 FR 44714), the Agency proposed to codify the statutory levels for the California list wastes as set forth in section 3004(d) of the Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act (RCRA). In this proposal, the Agency also requested comments and data on an alternative approach that would support lowering the restriction levels for those metals for which Extraction Procedure (EP) toxicity characteristic levels exist. In addition, the Agency requested comment on whether the statutory levels should be lowered for hazardous wastes containing the constituents (nickel, thallium, and cyanides) not covered by the EP toxicity characteristic. 51 FR 44722.

Most of the comments submitted in response to the proposed rule supported codifying the statutory levels, particularly for metal-bearing wastes. These commenters indicated that EPA should not lower the prohibition levels unless it can be demonstrated that the statutory limits are not protective of human health and the environment. Commenters asserted that prohibiting the California list metals at EP toxicity levels (levels at which wastes cannot be managed in Subtitle D facilities) would indicate that Subtitle C landfills do not provide additional protection beyond Subtitle D landfills.

A number of commenters, however, urged the Agency to substitute more stringent prohibition levels for California list metal-bearing wastes. The commenters asserted that the statutory levels are 10,000 times the National Interim Primary Drinking Water Standards (NIPDWS), and as such, are not protective of human health and the environment. The commenters further claim that the affected units receiving these wastes are, at least in some cases, unlined surface impoundments (liquids cannot be disposed in landfills) which are not significantly more protective than Subtitle D facilities. Several of these commenters stated that EPA has available data that support setting lower levels (e.g., data in delisting petition files). They also asserted that it is technologically possible to treat metal-bearing wastes to lower levels, and further, that there is substantial unused capacity for treatment of both metal- and cyanide-bearing California list wastes.

In today's notice, the Agency is requesting further comment on lowering the statutory levels for the liquid hazardous wastes containing the California list metals to levels 100 times the NIPDWS in the filtrate of these wastes (*i.e.*, levels found in the liquid portion by running the Paint Filter Liquids Test), and is providing more information on the substantive basis for such a decision. The Agency also is making available data that could support prohibition levels for nickel, thallium, and cyanide, for which no drinking water standards exist. Should the Agency promulgate prohibitions based on these findings, it would also be necessary to promulgate treatment standards under RCRA section 3004(m). Therefore, the Agency is also presenting data that indicates that metal-bearing and cyanide-containing California list wastes can be treated to achieve the EP or analogous levels (for those constituents for which there are no EP toxicity levels). In addition, the Agency is seeking comment on available alternative treatment and volumes of wastes that could be affected should the Agency finalize a rule lowering prohibition levels and establishing treatment standards.

II. Establishing More Stringent Concentration Levels

A. Rationale for Lowering the Prohibition Levels

Section 3004(d)(2) of RCRA indicates that EPA "shall substitute more stringent concentration levels" for those in the statute "when necessary to protect human health and the environment". As mentioned earlier, the Agency proposed to codify the statutory levels, and at the same time solicited comment on whether it should substitute more stringent concentration levels. 51 FR 44718.

Some commenters suggested that EPA has to make a quantified demonstration that the statutory levels are not protective in order to lower the levels. As indicated in the December 11, 1986 proposed rule (51 FR 44718), the statute and legislative history suggest that the decision in many ways is as much a question of policy as a question of fact. The levels in the California list were adopted essentially for reasons of administrative convenience H. Rep. No. 198, 98th Cong., 1st Sess., 35 (1983). The legislative history states that:

> [T]hese hazardous wastes and specified concentration levels were selected primarily because the State of California has conducted a rulemaking procedure and begun implementing restrictions on these wastes. The specified concentration levels—10,000 times the Interim Primary Drinking water Standards—are a conservative starting point for the analysis. The specified concentrations are not intended to be binding on the Agency. (S. Rep. No. 284 at 17)

The legislative history further expresses concerns that the statutory levels are too high, and authorizes the Agency to substitute more stringent levels, when deemed necessary. This language suggests that the decision in some ways involves the choice of a starting point, largely a policy choice. The Senate report indeed emphasizes (in the context of making any land disposal restriction determinations) the Agency's general discretion to prohibit hazardous wastes:

> [T]he Agency should not start from the point of having to justify the imposition of a land disposal restriction. The presumption is that land disposal is the least preferred management method. This makes the Agency's decision far simpler than if the Act were neutral as to different management options. The Agency should not start from an assumption that it must begin a new research effort or regulatory analysis before any determinations can be made. (S. Rep. No. 284 at 18)

Not only does section 3004(d) clearly allow the Agency to substitute more stringent levels, but a further indication in the statutory structure confirming the Agency's discretion to do so is that any such decision could be characterized as an action taken under the independent authority of section 3004(g). Such a decision—an Agency choice of the order in which to implement its delegated authority—is largely discretionary. In any case, the existence of the overlap with section 3004(g) indicates that disputes over the Agency's choice in lowering levels is in many ways a semantic battle over the means used to achieve the result, a situation where there is particular deference afforded to the Agency's choice. *CMA* v. *NRDC*, 105 S.Ct. 1105, 1112 (1985).

In consideration of this statutory language and legislative history, the Agency requested comment on lowering the statutory levels to the EP toxicity characteristic or similar levels (which are 100 times the NIPDWS or analogous levels as opposed to 10,000 times these concentrations). 51 FR 44716. Furthermore, a change in these levels is supported by the statutory findings of the inherent uncertainties and lack of safety of land disposal (see RCRA sections 1002(b)(7) and 3004(d)(1)(A)), and that the only land disposal units that can receive untreated prohibited waste and be deemed protective of human health and the environment for purposes of the land disposal restrictions program are those satisfying the statutory "no migration" standard (section 3004(d)(1)). When one further considers that these constituents are highly mobile (since they are contained in liquids), indefinitely persistent (except for cyanides), and very toxic (see section 3004(d)(1)(c)), it appears that the statutory prohibition levels require further evaluation.

Commenters on the December 11, 1986 proposed rule stated that more stringent levels are needed to protect human health and the environment. Their reasoning was that, as liquids, these wastes would be managed in surface impoundments since there are already prohibitions on the disposal of liquids in landfills (a statutory provision under RCRA section 3004(c), codified on July 15, 1985, prohibits the placement of bulk or non-containerized liquid hazardous waste or free liquids contained in hazardous waste in any landfill). Surface impoundments generally pose a greater potential for migration out of a unit than do other land disposal units because of the higher liquid head and larger volume of liquids within these units. Moreover, many currently operating interim status surface impoundments are unlined or inadequately lined and thus, the potential for downward seepage of contaminated fluids into ground water is high. A modeling analyses used to evaluate the benefits of proposed leak detection requirements indicated that dissolved constituents can be released at relatively high rates from unlined surface impoundments (May 29, 1987; 52 FR 20270). Of course, there are many cases of ground water contamination resulting from management of waste in surface impoundments that lack proper design and operation. Given the fact that these wastes will often be disposed of in unlined or inadequately lined hazardous waste impoundments, the Agency believes it is appropriate to evaluate whether such disposal at the statutory concentration levels would be protective of human health and the environment.

Release of contaminants in high concentrations could result in human exposure far in excess of health-based levels. The generic land disposal and ground water transport models utilized by the Agency to make policy decisions and for regulatory purposes (e.g., EP model, May 19, 1980, 45 FR 33110; Vertical and Horizontal Spread (VHS) model, November 27, 1985, 50 FR 48886) employ dilution/attenuation factors that estimate the reduction in concentration that would occur as toxicants are transported in ground water from a disposal unit to the point of exposure. The predicted degree of attenuation and dilution is insufficiant to prevent exposure to high levels of contaminants.

For the above reasons, the Agency believes that disposal at the statutory levels could result in migration of hazardous constituents from land disposal units that is not protective of human health and the environment. Under such circumstances, the commenter argue that the Agency's obligation is to substitute more stringent concentration levels. The Agency solicits comment on this tentative conclusion.

B. Suggested Prohibition Levels

In the December 11, 1986 proposed rule, the Agency solicited comment on lowering the statutory levels for those metals for which EP toxicity levels exist and on whether the statutory levels should be lowered for wastes other than those for which EP levels are established. 51 FR 44716 (see also 51 FR 44718). The Agency is considering promulgating prohibitions on the California list metal and cyanide wastes at levels 100 times the NIPDWS (or the analogue, in the case of nickel, thallium, and cyanide) and is today making available data to support these earlier statements. These levels are similar (or in the case of true liquids, identical) to

the current EP toxicity concentrations. Liquid wastes that exceed these concentration levels are defined as hazardous and, therefore, are prohibited from disposal in a sanitary landfil or other type of Subtitle D facility. Most commenters who urged the Agency to lower the prohibition levels favored this alternative. For the California list pollutants for which there is no NIPDWS, namely nickel, thallium, and cyanides, levels at 100 times a minimum health level would also be appropriate. 51 FR 44722. (See section III which discusses appropriate minimum health levels for these contaminants.) The Agency, therefore, is contemplating an approach whereby California list hazardous waste containing greater than 100 times the NIPDWS (or 100 times health based levels for nickel, thallium and cyanides) would be considered prohibited from land disposal (until pretreated, disposed of in a "no migration" unit, or granted a variance) (See Table 1).

In taking this position, EPA again does not believe that the statute requires a hard-and-fast quantification that substituted levels are needed to protect human health and the environment. This is because Congress has already determined that, for purposes of the land disposal restrictions program, disposal of untreated hazardous waste is only protective in "no migration" units. Congress also structured the Act in such a way that any substantial levels could be characterized as a section 3004(g) rule justifiable by reference to the factors in section 3004(g)(2), which do not require quantified showings. Rather, what is involvied is a determination of an appropriate regulatory starting point. The Agency's tentative view is that given the high degree of toxicity and highly mobile form of the California list metals and cyanides, it may be necessary to prohibit these wastes at concentration levels which normally define liquid waste containing these constituents as hazardous.

California list syanide and metal waste must be liquids, or contain free liquids. EPA has interpreted this statutory language to mean that the waste must fail the Paint Filter Liquids Test (PFLT), and that in determining if such a liquid waste is prohibited, one measures the constituent concentration level in the filtrate from the waste. 52 FR 25765. EPA is contemplating using this same approach for purposes of determining compliance with lower prohibition levels (since the Agency is construing the same statutory language). The Agency is not defining prohibition levels by reference to concentration levels in the EP extract from these wastes. In addition, commenters to the proposed rule urged the agency to avoid use of a simulated leach test (in the case of the proposal, the Toxicity Characteristic Leaching Procedure) to determine if a waste was prohibited. On the one hand many commenters felt such a test inappropriate because it did not suitably model all environmental conditions. Other commenters believed the test is insufficiently aggressive because of a dilution feature incorporated in the test protocol, which is also part of the EP toxicity test. Although the Agency does not necessarily agree with these commenters, they do point up reasons why use of an extraction feature in determining which wastes are prohibited might not represent a reasonable regulatory starting point.

TABLE 1.—HEALTH-BASED LEVELS AND SUGGESTED PROHIBITION LEVELS FOR CALIFORNIA LIST METALS AND CYANIDES (MG/L)

Constituent	NIPDWS	Alternative health-based level [a]	Suggested prohibition level (in PFLT filtrate)
Arsenic	0.05	–	5.0
Cadmium	0.010	–	1.0
Chromium	0.05	–	5.0
Lead	0.05	–	5.0
Mercury	0.002	–	0.2
Nickel	–	0.5	50.0
Selenium	0.01	–	1.0
Thallium	–	0.009	0.9
Cyanide	–	0.2	20.0

[a] These levels represent Reference Dose (RfD) values which are based upon data presented in Section III.

III. Proposed Health-Based Levels for Nickel, Thallium, and Cyanide

Today's notice outlines a possible Agency approach with respect to lowering the prohibition levels for California list liquid hazardous wastes containing metals and cyanides to a concentration that equals 100 times the National Interim Primary Drinking Water Standards (NIPDWS). NIPDWS exist for all these constituents identified in these California list waste streams, except nickel, thallium and cyanide.

In the absence of NIPDWS for nickel and thallium, the Agency indicated on December 11, 1986 (51 FR 44722) that, by analogy, one approach would be to use a level that is 100 times less than the statutory requirements. The statutory levels for nickel and thallium had been developed by multiplying the Ambient Water Quality Criteria (AWQC) for these constituents by a factor of 10,000 (the apparent rationale used by the State of California). The AWQC, however, are guidance numbers and not enforceable standards like the NIPDWS. Hence, prohibition levels developed which are based on these criteria may not be protective of human health. In today's notice, the Agency considers using a level that is 100 times a health-based number, known as a Reference Dose. This section makes available results from studies considered in developing the Reference Dose values for these constituents. Copies of the studies discussed in this section are available for inspection in the public docket.

A Reference Dose (RfD) is an estimate (with an uncertainty of one order of magnitude or more) of a lifetime daily dose of a substance which is likely to be without significant risk to human populations. The RFD is estimated by dividing the highest test does of a substance which causes no adverse effect (NOAEL: No observed adverse effect level) in appropriately conducted animal studies (human studies may also be used if appropriate) by a scaling factor (uncertainty factor) that converts an apparently safe daily dose for laboratory animals to a presumed safe daily dose for humans. The RfD may also be derived from the lowest observed adverse effect level (LOAEL) in a similar manner. The RfDs would represent the minimum health level upon which prohibition concentrations for nickel, thallium and cyanide could be based.

A. Nickel

1. Reference Dose Determination

The Agency has not established a drinking water standard for nickel at the present time. However, the Agency has developed a lifetime Health Advisory based on a NOAEL of 5mg/kg/day from a 2-year rat feeding study (Ambrose et al., 1976). Health Advisories are not legally enforceable Federal standards, but are useful as informal guidance for protecting public health in cases of emergency spills or contamination situations. In the Ambrose et al. study (1976), rats were fed a diet containing 0, 100, 1000, or 2500 ppm nickel sulfate (0, 5, 50, or 125 mg/kg/day) for 2 years. Body weights were reduced significantly in both male and female rats fed 2,500 ppm nickel ($p < 0.05$) when compared to the controls. At 1000 ppm, body weights were also reduced in both sexes. Heart-to-body weight ratios were significantly

higher and liver-to-body weight ratios significantly lower ($p < 0.05$) in the 1000 and 2500 ppm groups. No significant effects were reported at 100 ppm (5mg/kg/day). Therefore, the NOAEL identified in this study was 5 mg/kg/day (100 ppm). In this study, rat survival was poor, particularly in control rats of both sexes (44/50); this raises some concern about the interpretation of the results. However, a subchronic study by American Biogenics Corp. (ABC, 1986) also found 5mg/kg/day to be a NOAEL which supports the chronic NOAEL (Ambrose et al., 1976).

In addition to the above rat chronic feeding study, there are other chronic studies available in mice, rats and dogs. In the chronic study in mice (Schroeder et al., 1964), where animals were fed a diet devoid of cadmium and low in other elements, no significant effects were observed at 5 ppm (0.85mg/Ni/Kg/day) nickel in drinking water. In the study with rats (Schroeder et al., 1974), 5 ppm nickel (0.41 mg/kg/day) in drinking water for life led to a significant reduction in body weight of both male and female rats compared to controls; life span was not affected but histopathology revealed an increased incidence ($p < 0.025$) of focal myocardial fibrosis (13.3%) in the experimental group compared to the control. However, results of both the above studies are difficult to interpret because the studies used single doses and also because the diets were deficient in other essential minerals. In the 2-year dog study (Ambrose et al., 1976), in which animals were fed a diet containing 0, 100, 1000 or 2500 ppm nickel (0, 3, 29 or 70 mg/kg/day), the NOAEL identified was 29 mg/kg/day (1000 ppm) based on decreased body and liver weights.

Nickel has also been tested for its reproductive toxicity. In the 3-generation rat reproduction study (Ambrose et al., 1976), rats fed a diet containing 0, 250, 500 or 1000 ppm nickel sulfate (0, 12.5, 25 or 50 mg/kg/day) showed increased stillbirths in the first generation, and decreased pup body weight at 50 mg/kg/day (1000 ppm). Increased stillbirths were also observed in the control group. This study had some statistical design limitations, such as small sample size with the use of pups rather than litters as the unit for comparison. Also, the fact that nickel was administered in the diet caused problems when applying these data to drinking water situations. Schroeder et al., (1971) reported a 3-generation reproduction study in rats administered 5 ppm nickel in drinking water (0.43 mg/kg/day). In this study, neonatal mortality was increased significantly ($p < 0.025$) in all generations of exposed rats compared to controls; the number of runts were increased significantly in the first (F_1) ($p < 0.025$) and third (F_3) ($p < 0.0001$) generations. Average litter size was reduced somewhat in the F_3 generation. The results of this study, however, are difficult to interpret because only 5 pairs of animals were used for mating and the diet was found deficient in trace essential metals (in particular the essential element chromium). Also the results of this study are not reproducible.

Because of the various problems with the available nickel studies (as mentioned earlier), the Agency conducted two studies to determine the effects of nickel on rats. The first study was a 2-generation reproduction study in rats (RT1, 1987) which included a 90-day subchronic non-breeder satellite group. The second was a subchronic gavage study in rats (ABC, 1986).

In the 2-generation reproduction study (RTI, 1987), nickel chloride was administered in drinking water to male and female CD rats (30/sex/group) at dose levels of 0, 50, 250 and 500 ppm (0, 7.3, 30.8, and 51.6 mg/kg/day, estimated) for 90 days prior to breeding. (Ten rats/sex/group comprised a satellite subchronic non-breeder group.) At the 500 ppm dose level there was a significant decrease in the Po maternal body weight along with absolute and relative liver weights. No adverse effect was noted at the 250 ppm level or lower for the Po breeders of the non-breeder satellite. Histopathology was performed on liver, kidney, lung, adrenals, pituitary and reproductive organs to make this assessment.

In the F1a generation (postnatal days 1–4) at the 500 ppm dose level, the number of live pups/litter was significantly decreased, pup mortality was significantly increased, and average pup body weight was significantly decreased in comparison with controls. Similar effects were seen in F1b litters of Po dams exposed to 500 ppm nickel. In the F1b litters of the 50 and 250 ppm dose groups, increased pup mortality and decreased live litter size was seen. However, these effects seen with F1b litters are questionable because the room temperature tended to be 10°F higher than normal at certain times (gestation-postnatal days) along with much lower levels of humidity. As evidenced in the literature, temperatures which are 10°F above the normal during fetal development, cause adverse effects (Edwards, 1986). Therefore, the above results seen at the 50 and 250 ppm dose cannot be considered as genuine adverse effects.

F1b males and females were randomly mated on postnatal day 70 and their offspring (F2a and F2b) were evaluated through postnatal day 21. This phase included teratological evaluations of F2b fetuses. Evaluation of the data indicated that the 500 ppm nickel dose caused significant body weight depression of both mothers and pups, and increased neonatal mortality during the postnatal development. The intermediate dose, 250 ppm nickel, produced transient depression of maternal weight gain and water intake during gestation of the F2b litters. The 50 ppm nickel caused a significant increase in short ribs (11%). However, since this effect was not seen in the two higher dose groups, the reported incidence of short ribs in the 50 ppm group is not considered to be of biological significance.

In the subchronic study (ABC, 1986), nickel chloride in water (0, 5, 35 and 100 mg/kg/day) was administered by gavage to both male and female CD rats (30 animals/sex/group). The data generated in this study included clinical pathology, ophthalmological evaluations, serum biochemistry, body and organ weight changes and histopathological evaluations of selected organs (heart, kidney, liver).

Clinical signs of toxicity, such as lethargy ataxia, irregular breathing, cool body temperature, salivation and discolored extremities, were seen primarily in the 100 mg/kg group; these signs were less severe in animals of the 35 mg/kg group. The 5 mg/kg groups did not show any significant clinical signs of toxicity. Also, there was 100% mortality in the high-dose group; 6/30 males and 8/30 females died in the mid-dose group (35 mg/kg/day). Histopathological evaluation indicated that 3/6 dead males and 5/8 dead females were due to gavage errors. Body weight and food consumption values were consistently lower than controls for the 35 and 100 mg/kg dosed males. Female rats in both high-dose groups had lower body weights than controls but food consumption was unaffected by the test article. At sacrifice, kidney, liver and spleen weights for 35 mg/kg treated males and right kidney weights for 35 mg/kg treated females were significantly lower than controls. Based on the results obtained in this study, the 5 mg/kg/day nickel dose was a NOAEL, whereas the 35 mg/kg/day was a LOAEL for decreased body and organ weights.

Thus, it can be seen that the chronic NOAEL of 5 mg/kg/day derived from the Ambrose et. al. (1976) study is

supported by the subchronic study by ABC, 1986. Using this chronic NOAEL of 5 mg/kg/day, in uncertainty factor of 100 (10 for the uncertainty in the interspecies conversion and 10 for uncertainty in the sensitive human subpopulations) and a modifying factor of 3, the RfD calculated is 0.02 mg/kg/day (the modifying factor is another uncertainty factor, the size of which depends on the assessment of scientific issues not explicitly addressed by the conventional uncertainty factors). The modifying factor of 3 is used because of inadequacies in the reproductive studies (RTI, 1987; Ambrose et. al. 1976). During the gestation and postnatal development of F1b litters in the RTI (1987) study, temperatures were about 10 °F higher than normal at certain times which makes evaluation of this part of the reproductive study impossible. In the Ambrose et. al. (1976) study, there were some statistical design limitations, such as small sample size and use of pups rather than litters as the unit for comparison.

Based on the above RfD of 0.02 mg/kg/day, the concentration of nickel per liter of water consumed by an adult weighing 70 kg and drinking 2L water per day is 0.7 mg/L. This assumes that 100% of the exposure for nickel is via drinking water. However, it has been shown that the nickel intake from diet is between 350–500 ug/day. Therefore, the Agency apportioned the reference dose assuming an average intake of 400 ug/day from diet. The resulting concentration of nickel in drinking water would be 0.5 mg/L.

2. Proposed health-based prohibition level

Based on the above apportioned RfD of 0.5 mg/L, the Agency would consider promulgating a health-based prohibition level for nickel of 50 mg/L in the filtrate from a waste. This value is derived using the assumptions discussed in the May 19, 1908, FR notice (45 FR 33119) which promulgated the Extraction Procedure Toxicity Characteristic.

B. Thallium

1. Reference Dose Determination

There is no drinking water standard for thallium at the present time. The Agency's Reference Dose Workgroup had verified RfDs for various thallium compounds which ranged from $4 \times 10^{-4} \times 10^{-4}$ mg/kg/day.The RfDs were based on a study by Downs et. al, (1960) in which rats were fed diets containing varying concentrations of thallium acetate for 15 weeks. The NOAEL (No Observed Adverse Effect Level) for thallium indentified in this study was 5 ppm (0.39 mg/kg/day) based on alopecia and increase in kidney weght.

The above study, however, was not adequately performed. There were too few animals per dose group, mortality was very high—100% in the 50 ppm group by week 5, 100% in the 30 ppm group by week 9, and 40% in the control group by week 15, which made interpretation of survival in remaining dose groups difficult. At the 15 ppm level the mortality was ⅜ males and ⅛ females and at the 5 ppm level (the NOAEL) ⅜ males and ¾ females. The Agency, therefore, had thallium sulfate tested in a rat subchronic study by the Midwest Research Institute (1986). This study was carried out according to the EPA Toxic Substances Control Act (TSCA) Toxicity Testing Guidelines (40 CFR 798.2650) and is available for review in the docket to this rulemaking. In this study, Sprague-Dawley rats (20/sex/group) were treated by gavage with an aqueous solution of thallium acetate at concentrations of 0, 0.01, 0.05 or 0.25 mg/kg/day. The NOAEL identified in this study is 0.25 mg/kg/day. Applying an uncertainty factor of 1000 [10 for uncertainty in the subchronic NOAEL (no chronic studies available), 10 for uncertainty in the interspecies coversion and 10 for uncertainty in the sensitive human subpopulations], the RfD is calculated to be 2.5×10^{-4} mg/kg/day. Based on this RfD, the concentration of thallium per liter of water consumed by an adult weighing 70kg and drinking 2L water per day is 0.9×10^{-2} mg/L. This assumes that 100% of the exposure to thallium is via drinking water. The Agency may revise this number if there are relative source contribution data which document human exposure from other sources such as food, air and possibly the occupational environment.

2. Proposed health-based prohibition level

Based on the above RfD of 0.009 mg/L the Agency would consider promulgating a health-based prohibition level for thallium of 0.9 mg/L in the filtrate from a waste. This value is derived using the assumptions discussed in the May 19, 1980, FR notice (45 FR 33119) which promulgated the Extraction Procedure Toxicity Characteristic.

C. Cyanide

1. Reference Dose Determination

There is no drinking water standard for cyanide. The Agency has a life-time health advisory based on a RfD of 0.02 mg/kg/day. The Agency had verified the RfD based on a study by Howard and Hanzel (1955) in which rats were fed diets, for 104 weeks, that had been fumigated with HCN. The average CN concentrations in food were estimated based on the food consumption and body weight. The daily estimated intake of CN was 4.3 and 10.8 mg/kg/day. Using the NOAEL of 10 mg/kg/day, an uncertainty factor of 100 (10 for uncertainty in the interspecies conversion and 10 for uncertainty in the human subpopulations) and a modifying factor of 5 (to account for the apparent tolerance to cyanide when it is digested with food rather than when it is administered by gavage or by drinking water), the RfD calculated was 0.02 mg/kg/day.

The interpretation of data from the Howard and Hanzel (1955) study is difficult because of the route of administration (in the diet rather than in water) and the manner in which the delivered dose was measured (the CN concentration was estimated based on levels measured at the beginning and end of each food preparation period and by assumption of a first-order rate of loss during the intervening period). The Agency, therefore, conducted a subchronic study (IIT Research Institute, 1987), according to the EPA TSCA Toxicity Testing Guidelines (40 CFR 798.2650). The data is available in the docket to this rulemaking.

In this study, Sprague-Dawley rats (20/sex/dose) were administered CuCN in a 1.5% carboxymethylcellulose (CMC) vehicle by gavage at dose levels ninety to of 0, 0.5, 5 15 or 50 mg/kg/day for ninety-three days. The vehicle control group received CMC only. The untreated control group received neither vehicle nor CuCN, but otherwise was handled in a manner similar to that of treatment groups. The NOAEL identified in this study is 5 mg/kg/day based on significant decreases in the body weight and body weight gain, in serum SGOT level, and in organ weights (kidney, spleen and brain). Based on the NOAEL and using an uncertainty factor of 1000 (10 for uncertainty in the subchronic NOAEL, 10 for uncertainty in the interspecies conversion and 10 for uncertainty in the sensitive human subpopulations) the RfD calculated 0.005 mg/kg/day.

Using this RfD, the concentration of cyanide per liter of water consumed by an adult weighing 70 kg and drinking 2L water per day is 0.2 mg/L. This assumes that 100% of the exposure for CN is via drinking water. This number may change if there are relative source contribution data from other sources such as food, air and possible occupational exposure.

2. Proposed health-based prohibition level

Based on the above verified RfD of 0.2 mg/L, the Agency is considering promulgating a health-based prohibition level for cyanide of 20 mg/L in the filtrate from a waste. This value is derived using the assumptions discussed in the May 19, 1980, FR notice (45 FR 33119) which promulgated the Extraction Procedure Toxicity Characteristic.

D. References

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IV. Establishing Treatment Standards For California List Metals and Cyanides

Statutory Basis for Establishing Treatment Standards

Section 3004(m) of RCRA states that "simultaneously with the promulgation of regulations" prohibiting the land disposal of particular hazardous wastes, EPA shall "promulgate regulations specifying those levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized." Therefore, should the Agency promulgate more stringent prohibition levels, it would also have an affirmative responsibility to establish treatment standards for these metal-bearing and cyanide-containing wastes.

V. Treatment Technology Performance Data Analysis

Several commenters on the December 11, 1986 proposed rule stated that California List metal-bearing and cyanide-containing wastes could be treated below the statutory prohibition levels, and a number of them indicated that treatment at least to levels comparable to the EP regulatory levels were achievable for metals. Specifically, these commenters pointed to delisting petitions and Agency studies as sources of data supporting their positions. In addition, one commenter provided treatment data on California List metals.

In response to the above-mentioned comments, the Agency performed a series of treatment performance data analyses. This section presents the Agency's methodology for performing these analyses, all available treatment data, a discussion of its limitations, and the conclusions derived from the data.

A. Data Analysis Methodology

1. Data Compilation

The Agency's initial activity was to identify data sources germane to a re-analysis of waste treatment of metals and cyanides. This activity included (1) analyzing delisting petitions, (2) reviewing petitions submitted subsequent to the original analysis performed for the proposed rule, (3) assessing Agency data collected in support of other regulatory programs, (4) reviewing available literature, and (5) analyzing data contained in comments submitted in response to the proposed rule. The Agency assembled all data on metals and cyanide treatment regardless of whether the wastes involved would have been classified as a California List waste.

Two criteria were used to edit the data. The First editing rule was that the untreated waste concentration in wastewater for the California List metals and cyanide had to be greater than the EP regulatory levels or health-based prohibition levels. Similarly, leachates from untreated wastes other than wastewaters had to have concentrations greater than the EP regulatory levels or health-based prohibition levels. If leachate data were not available for untreated wastes other than wastewater, the untreated waste concentration for the various metals and cyanide had to be greater than 20 times the EP regulatory levels or health-based prohibition levels. This second editing rule reflects the inherent dilution factor of the EP Toxicity (or TCLP) test. For example, if a raw sludge contained 800 mg/kg of nickel, the EP Toxicity test leachate would have a maximum value of 40 mg/1 (or 1/20 of the value of the original composition). The 40 mg/1 value assumes no treatment and 100 percent leaching of nickel from the waste. The two editing rules were necessary to ensure that all data evaluated are appropriate for making a determination of whether a waste can be treated to a particular level. It is important to note that for most of the delisting data, leachate values were not available for the untreated wastes; in these cases. EPA included the raw waste and treated waste data set provided that the untreated waste concentration was more than 20 times the EP regulatory levels or health-based prohibition levels.

2. Data Analysis

For each treatment data point, the Agency assessed the specific waste characteristic data that would affect the performance of the technology used to treat the waste. Additionally, the Agency analyzed the pertinent design and operating data associated with the performance of the treatment technology. The specific parameters the Agency included in its analysis can be found in the Applicable Technologies, Section V(B).

The Agency notes that in analyzing these data, it is unable to use the methodology for deriving BDAT levels outlined in the November 7, 1986 solvent rule (51 FR 40590–592). This methodology presupposes a data set from treating relatively well-defined waste treatability groups. California List wastes, however, area a much more diverse set or wastes, containing numerous potential waste treatability groups (51 FR 44727, December 11, 1986).

EPA is not able to establish discrete treatability groups at this time for California List wastes, and consequently is unable to use the November 7 methodology in analyzing these data. Nor is the Agency using these data to derive treatment levels. The data are instead being used as a means of corroborating the Agency's engineering judgment and commenters' assertions that treatment standards reflecting EP regulatory levels (or comparable levels for nickel, thallium, and cyanides) are achieveable.

As additional data are developed for individual metal and cyanide waste streams, the Agency will revise these prohibition levels accordingly. This could be done either pursuant to Section 3004(g) authority, or possibly through analysis of data and other information submitted in response to this notice. Thus, treatment standards under consideration in this notice will serve as an interim measue until EPA re-evaluates these wastes according to the final schedule for land disposal restrictions which was promulgated on May 28, 1986 (51 FR 19300). Should EPA issue a final rule establishing the types of treatment standards discussed here, the Agency would thus characterize its action as a type of interim BDAT (i.e., a treatment standard, in the Agency's judgment, attainable for a very wide spectrum of California List wastes but subject to later reevaluation as individual waste treatability groups and treatment performance on such treatability groups become better defined).

Finally, the Agency notes that the treatment standards under consideration for metal-bearing and cyanide-containing wastes most likely would be expressed as either concentrations in the waste or treated residue using the EP toxicity test or the Toxicity Characteristic Leaching Procedure (TCLP). The Agency's use of the EP toxicity test for purposes of determining compliance will the treatment standards would be consistent with the analytical methodology used for the data that the Agency is examining and noticing for comment. An alternative approach would be to consider use of the TCLP (Appendix I to Part 268-Land Disposal Restrictions; 51 FR 40572, November 7, 1986). Currently, the Agency is reviewing the TCLP to determine if it produces results for these wastes that approximate those from the EP toxicity test. The Agency is requesting comment on the applicability of these possible approaches for purposes of determining compliance with the treatment standards.

B. Applicable Technologies

This section describes the technology and its application, the chemical/physical mechanisms by which treatment is accomplished, the various waste characteristics that affect treatment, and finally the design and operating parameters that are important in optimizing treatment of a particular waste.

The technologies presented below are the technologies that we believe are most applicable to the treatment of California List metals and cyanide. They are: chemical precipitation, stabilization, chromium reduction, cyanide oxidation, high temperature metal recovery, filtration, sludge dewatering, and ion exchange.

1. Chemical Precipitation

a. *Description and Applicability.* Chemical precipitation refers to both the primary step of forming a chemical precipitate and follow-up operations that separate the solid precipitate from the liquid. Equipment required to operate a chemical precipitation system includes the following: a stirred reaction tank, feed systems to introduce treatment chemicals and/or flocculant aids, a settling tank or clarifier, and possibly filtration or centrifugation equipment.

The chemical precipitation treatment technology can be applied to a wide range of wastewaters that contain California List metal wastes.

b. *Basic Principle of Operation.* The basic operating principle of this technology is to chemically convert metal compounds from a soluble to an insoluble form and then to remove the precipitate by settling or other physical separation.

The principal chemicals used to convert soluble metal compounds to the insoluble form are lime ($Ca(OH)_2$), caustic (NaOH), sodium sulfide (Na_2S), and, to a lesser extent, soda ash (Na_2CO_3) and ferrous sulfide (FeS). Removal of the chemical precipitate is generally accomplished by gravity settling, clarification, and/or filtration.

c. *Waste Characteristics Affecting Performance.* The level of metals removal achieved by chemical precipitation treatment may depend on a number of waste characteristics, which include:

- The valence state of the metal;
- Other metals present in the waste;
- Whether the metal exists as a complex;
- High concentrations of dissolved inorganic solids in solution (i.e., salinity);
- Presence of oil and grease in the waste; and the
- Presence of surfactants in the waste.

As shown in Figure 1, for many metals there is a specific pH at which the metal is least soluble (other waste characteristics including temperature and pressure being equal). Also, many metals are amphoteric, meaning that there are both lower and higher pH values at which the metal is more soluble. As a result, when metals are mixed, it is not possible to operate a treatment system at a single pH value that is optimum for all metal removals. Certainly, improved treatment can result from multiple precipitations at a number of pH settings, but it may still be difficult with some combinations of metals and associated concentrations to achieve close to optimum performance.

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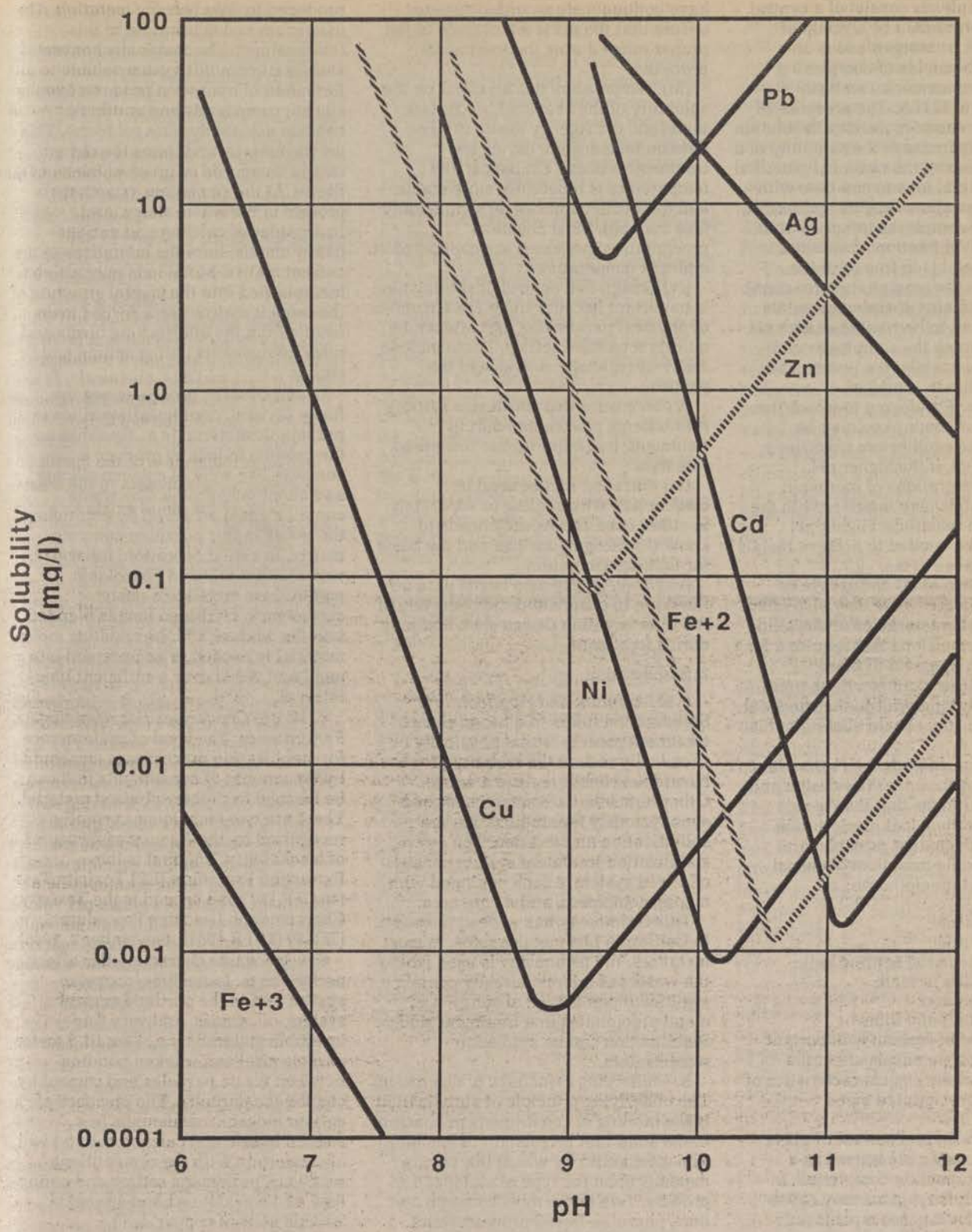

Figure 1. Solubilities of Metal Hydroxides as a Function of pH

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Metal complexes consist of a central metal ion surrounded by a group of other organic or inorganic ions or molecules. Examples of complexing molecules are ammonia, amines, methanol, and EDTA. The presence of complexing ions or molecules in solution will generally increase the solubility of a metal by reducing the chemical potential of the free metal ions to combine with precipitating anions such as hydroxide. When metal complexes are present in solution, only a fraction of the total dissolved metal is in free form (i.e., available for the precipitation reaction). Wastes containing complexed metals generally need to be treated at high pH in order to break the complexes and transform the metals to a less-soluble form amenable to chemical precipitation. The degree to which the complexes can be broken may be limited by the equilibrium conditions that exist even at the higher pH.

High concentrations of inorganic dissolved solids may interfere with the precipitation reactions. Higher pH values may be needed to achieve metals removal in these cases.

The presence of oil and grease or surfactants in the waste may also affect the settling characteristics of the solids by creating emulsions that require a long settling time. Removal of these constituents (for example, by thermal emulsion breaking prior to the chemical precipitation step should eliminate this problem.

d. *Design and Operating Parameters Affecting Performance.* The design and operating variables that the Agency evaluates for chemical precipitation systems, to the extent possible, are:

- The specific treatment chemical used to effect precipitation;
- pH;
- Temperature;
- Settling time;
- Feed rate to the settling tank; and, if filtration is used;
- Pore size; and
- Feed rate to the filter.

(i) The type of reagent is important because these chemicals affect the solubility and settling characteristics of the various precipitated metal compounds.

(ii) The design and control of pH is important because pH is used as a surrogate for reaction completion. In addition, sulfide reagents may cause emission of toxic gases if pH is not properly controlled. In a batch system, control is less difficult than in a continuous system. A continuous system requires a fairly sophisticated automatic control system in order to keep the pH in a relatively narrow range. To the extent possible, the Agency prefers to have continuously recorded data to ensure that the pH is maintained in the proper range during the treatment process.

(iii) Temperature has an effect on the solubility of the chemical precipitate; therefore, the Agency needs to have data on temperature during the treatment process. Unlike pH, the temperature is inherently more stable and data collection can be significantly less frequent. Most chemical precipitation processes are conducted at ambient temperatures.

(iv) Design and control of settling time is important because there are a number of physical parameters that affect how quickly a particle settles. These include the density, shape, and size of the particle.

(v) To ensure that the design settling rate is being maintained during treatment, it is important to have feed rate data.

(vi) Filtration can be used in conjunction with settling or separately. In either case, the Agency needs to know the design pore size and the basis for that determination.

(vii) The Agency also needs data on flow rate to ensure that the operation of the filter is within design specifications during treatment.

2. Stabilization

a. *Description and Applicability.* Stabilization refers to a broad class of treatment processes that physically or chemically reduce the mobility of hazardous constituents in a waste. Other terms that are sometimes used synonymously for stabilization are solidification and fixation. The stabilization treatment system consists of a feed system, a tank equipped with mixing equipment, and a cure area.

This technology has wide application to California List metal wastes. In most instances, the technology is used where the wastes of interest already contain a significant percentage of solids, e.g., metal precipitates in a treatment sludge. Stabilization can be applied to wastewaters.

b. *Underlying Principles of Operation.* The underlying principle of stabilization is the binding of constituents of concern into a solid that is resistant to leaching. The mechanism by which this occurs depends upon the type of stabilization process. Two of the most common are lime/pozzolan-based processes and portland cement-based processes.

In portland cement systems, the waste is mixed in a slurry with anhydrous cement powder, water, and, frequently, pozzolanic additives. The cement powder is a mixture of powdered oxides of calcium, silica, aluminum, and iron produced by kiln burning materials rich in calcium and silica at high temperatures. The major mechanism of stabilization in this system is the formation of hydration products from silicate compounds and water. A calcium silicate hydrate gel forms. This gel then swells and forms the cement matrix composed of interlocking silicate fibrils. At the same time, constituents present in the waste slurry, e.g., hydroxides of calcium and various heavy metals, form the interstices of the cement matrix. Metal ions may also be incorporated into the crystal structure of the cement matrix itself. A rigid mass results from the interlocking fibrils and other components during setting and curing.

Lime/pozzolan processes use the finely divided, noncrystalline silica in pozzolanic material (e.g., fly ash) and the calcium in lime to produce a concrete-like solid of calcium silicate and alumino hydrates. The waste containment is achieved by entrapping the waste in this pozzolan concrete matrix. In actual operation, the waste, water, and a selected pozzolanic material are mixed to a pasty consistency. Hydrated lime is blended into the mixture and the resulting moist material is packed or compressed into a mold and cured over a sufficient time interval.

c. *Waste Characteristics Affecting Performance.* The level of performance for stabilization processes is measured by the amount of constituents that can be leached from the stabilized material. There are two techniques currently recognized by the Agency as measures of leachability. The first is the Extraction Procedure (EP) Toxicity Test (40 CFR 261); the second is the Toxicity Characteristic Leaching Procedure (TCLP) (51 FR 40643, November 7, 1986).

Several waste characteristics affect performance. In the lime/pozzolan system and in the portland cement system, oil, grease, and very fine insoluble materials (i.e., 74×10^{-6} meter particle size) can weaken bonding between waste particles and cement by coating the particles. The presence of certain inoganic compounds (e.g., sodium borate and calcium sulfate) will also interfere with the cementitious reactions, prolonging setting and curing time and weakening bond strenght. Soluble salts of copper, lead, manganese, tin, and zinc may cause large variations in setting and curing time and reduce the dimensional stability of the cured matrix, thereby increasing leachability potential. The presence of certain organic compounds may likewise interfere. In portland

cement systems, large amounts of sulfates will impede setting and react to form calcium sulfuluminate hydrate, causing swelling and spalling of the stabilized product.

d. *Design and Operating Parameters Affecting Performance.* The design and operating parameters that the Agency evaluates, to the extent possible, are:

- Selection of stabilizing agents and other additives;
- Ratio of waste to stabilizing agents and other additives;
- Mixing; and
- Cure conditions.

(i) The type of stabilizing agent selected and the use of additives will determine the bonding and structure of the stabilized waste solid and, therefore, have an effect on how well waste constituents are incorporated into the solid. Stabilizing agents and other additives must be carefully selected based on the chemical and physical characteristics of the waste to be stabilized. For example, the amount of sulfates in a waste will come into consideration when choosing a lime/pozzolan over portland cement-based system. Lime/pozzolan or a special low alumina, sulfate-resistant cement would be the stabilizing agent of choice, as it would prevent swelling and spalling in the stabilized product. Waste-solidifying formulations in stabilization processes vary widely, and a variety of materials may be used in conjunction with the stabilizing agent to change performance characteristics. These include soluble silicates, hydrated silica gels, clays, emulsifiers, surfactants, carbon, and zeolites. In portland cement systems, soluble silicates will reduce the interference from metal ions in the waste. Emulsifiers and surfactants will allow the incorporation of immiscible organic liquids. Carbon, silicates, and zeolites will adsorb toxic constituents and be encapsulated within the stabilized solid.

(ii) The amount of stabilizing agents and other additives is a critical parameter in that sufficient stabilizing materials are necessary in the mixture to bind the waste constitutents of concern properly, thereby making them less susceptible to leaching. The appropriate ratios of amounts of waste to stabilizing agent and other additives are established after evaluating the waste and the selected stabilization formulation. This may be done by setting up a series of experiments that allow separate leachate and strength testing of different mix ratios. Once established, the ratios are maintained by monitoring the volume and/or weight of the waste and the stabilizing agents and other additives through the use of feed systems.

(iii) The conditions of mixing include the type and duration of mixing. Mixing is necessary to ensure adequate distribution of the waste and the stabilizing agents, thereby resulting in uniform bonding. Insufficient mixing could result in some of the waste constituents of concern not being bound in the solid and thus being susceptible to leaching.

(iv) The conditions of cure include the duration of curing and the ambient curing conditions (temperature and humidity). The duration of curing is a critical paramenter to ensure that the waste particles have had sufficient time in which to form a stable solid. The time ncessary for complete stabilization to occur depends upon the waste type and the treatment process used. The performance of the stabilized waste (i.e., the levels of constitutents in the leachate) will be highly dependent upon whether complete stabilization has occurred. Curing conditions such as ambient temperature and humidity affect the rate of curing and, therefore, could affect the strength of the stabilized solid.

3. Hexavalent Chromium Reduction

a. *Description and Applicability.* The process of hexavalent chromium (Cr^{6+}) reduction involves conversion from the hexavalent form to the trivalent form of chromium. The treatment system essentially consists of a stirred tank with a feed system for adding a "reducing agent" and a system for adding a chemical to adjust pH. This technology has wide application to hexavalent chromium wastes including plating solutions, stainless steel acid baths and rinses, "chrome conversion" coating process rinses, and chromium pigment manufacturing wastes. It is important to note that additional treatment is required to remove trivalent chromium from solution.

b. *Basic Principles of Operation.* The basic principle of treatment is to reduce the valence of chromium in solution (in the form of chromate or dichromate ions) from the valence state of six to the trivalent (+3) state. "Reducing agents" used to effect the reduction include sodium bisulfite, sodium metabisulfite, sulfur dioxide, sodium hydrosulfide, or the ferrous form of iron.

c. *Waste Characteristics that Affect Performance.* The Agency believes that the single waste characteristic that most affects performance of chromium reduction treatment is the presence of other reducible compounds in the waste. Substances such as oils and other metal ions may exhibit a demand for the reducing agent used to treat hexavalent chromium. In these cases, additional reducing agent must be added to satisfy the extra demand. To ensure that enough reducing agent is employed in the batch system, the hexavalent chromium concentration is monitored after completion of treatment. In continuous systems, oxidation-reduction potential (ORP), a surrogate for hexavalent chromium concentration, is measured and controlled.

The literature indicates that solutions of hexavalent chromium up to 1,300 ppm have been treated successfully using reduction technology. More concentrated solutions should be bench tested prior to application of the reduction technology. Additional retention time may be required for satisfactory treatment.

d. *Design and Operating Variables Affecting Performance.* Four design and operating variables that the Agency believes are critical to proper operation are:

- pH control;
- Control of reducing agent feed quantity;
- Type of reducing agent used; and
- Retention time.

(i) The specific pH value chosen (usually acidic) is a function of the reducing agent used. In a batch system the value need not be adhered to rigorously (i.e. within ± 1 pH unit) because the reaction will be completed rapidly even with slight variations. Reaction completion is determined, in any case, by measuring hexavalent chromium levels prior to further processing. In continuous systems, however, where oxidation-reduction potential (ORP) sensors are used to control feed of the reducing agent, pH must be controlled precisely, since the ORP value will vary with pH changes.

(ii) In continuous systems, the ORP value is used as a surrogate for the degree of hexavalent chromium treatment, and controls the feed of reducing agent. If the ORP is not controlled in a fairly precise range, insufficient reducing agent may be fed to treat the hexavalent chromium.

(iii) Various reducing agents are available (see Basic Principles of Operation section). Economics and availability usually dictate their use, not the ability to reduce hexavalent chromium. Certain reducing agents will require higher dosage rates than others. Also, some will produce greater quantities of settled solids (such as ferrous iron, which also precipitates ferric hydroxide). Sulfur dioxide, when used as a reducing agent, may liberate

sulfur dioxide gas if not properly maintained and controlled.

(iv) Retention time should be adequate to ensure that the hexavalent chromium reduction reaction goes to completion. In the case of the batch reactor, the retention time is varied by adjusting treatment time in the reaction tank. If the process is continuous, the retention time may be varied by changing flow rates of feed and reagent to the reaction tank.

4. Cyanide Oxidation

a. *Description and Applicability.* Cyanide oxidation is a treatment process which chemically destroys free cyanides found in solution. The cyanide is converted either to a cyanate form or to carbon dioxide and nitrogen. This treatment system consists of a stirred tank or tanks and feed systems for an oxidizing agent and a chemical used to adjust pH.

This technology can be applied to a wide range of cyanide wastes such as those generated from plating copper, zinc and brass; solutions generated by rinsing of residues from cyanide salt heat treating baths; and cyanide metal "passivating" solutions and rinses. In some solutions, however, cyanide is tightly bound to dissolved metals, such as iron, by chemical complexing (i.e., the metal and the cyanide are not easily separated). Therefore, the metal cyanide complex becomes less amenable to chemical oxidation. For some of these "complexed" forms of cyanide, the preferred treatment technology is cyanide precipitation.

b. *Basic Principles of Operation.* In the cyanide ion, the carbon and nitrogen atoms are bound by what is referred to as a triple bond, represented by $-C\equiv N$. When sufficient oxidizing agent is present, the cyanide ion is converted to a cyanate ion, represented by $-O-C\equiv N$ or $O=C=N-$. Further treatment, if used, breaks the triple bond form of cyanate and converts both forms of the cyanate to carbon dioxide and nitrogen gas. The two types of oxidizing agents used most frequently are chlorine-containing materials (e.g., chlorine gas, sodium hypochlorite, or calcium hypochlorite) and ozone gas. A typical reaction showing sodium hypochlorite reacting with sodium cyanide to form sodium cyanate is:

$$NaCN + NaOCl \rightarrow NaCNO + NaCl.$$

c. *Waste Characteristics Affecting Performance.* The two waste characteristics that affect performance are the presence of metals and the presence of other oxidizable materials. As noted earlier, many metals form complexes with free cyanide. Complexes of many of the metals, including iron and to some extent nickel, cannot be decomposed by cyanide oxidation techniques. Other technologies such as chemical precipitation of the cyanide complex may be required.

The presence of other oxidizable materials affect the performance of the treatment system. Free cyanide is not the only constituent of wastewater than can be oxidized by chlorine-containing compounds or ozone. Organic materials (such as oils and surfactants) and reduced forms of metals (such as trivalent chromium and ferrous iron) will also react with the oxidizing agents. Consequently, enough oxidizing agent must be added to overcome the demand of both the free cyanide and the other materials.

d. *Design and Operating Variables Affecting Performance.* Four design and operating variables that the Agency monitors, to the extent possible, for effect on performance are:

- pH;
- Oxidizing agent feed quantity;
- Reaction time; and
- Type of oxidizing agent used.

We believe that evaluation of these parameters best provides a reasonable measure of assurance that the system is designed and operated properly.

(i) The pH must be kept in the alkaline range (above 7) in order to ensure that free cyanide is not released as toxic hydrogen cyanide gas to the atmosphere. Also, the pH for each process step must be controlled for the reaction to proceed at a reaction rate sufficient to prevent liberation of toxic cyanogen chloride gas. Additionally, if ORP controls are used to control feed of the oxidizing agent (discussed below), pH control must be very rigorous because the ORP value varies with changes in the pH value.

(ii) The feed quantity of the oxidizing agent (e.g. chlorine and ozone) affects performance. Enough oxidizing agent must be added to react fully with the free cyanide present. For batch systems, the oxidizing agent may be added until chemical analysis shows that no cyanide is detectable. Although detection levels may change somewhat, depending on the composition of the waste, it is generally possible to achieve a detection level of 10 ug/l in the treated waste.[1] For continuous systems, the level of oxidizing agent should be monitored and controlled with an ORP meter. As noted earlier, ORP is sensitive to pH and, therefore, pH must be kept constant during the treatment process.

(iii) Reaction time should be sufficient to ensure that the cyanide destruction reactions have gone to completion. For continuous systems, reaction time is monitored by obtaining data on the flowrate of the waste. If the flowrate is at or below the design value for the volume of the system, and the initial concentration is at or below the design value, then the reaction time would be adequate.

(iv) Each of the oxidizing agents discussed (those containing chlorine and ozone) will work effectively. Consequently, the decision of which to use is usually based on economics and availability. However, different doses of each will be required. Also, for some oxidizing agents, such as ozone, smaller quantities of chemicals (lime or caustic soda) will be required to adjust pH.

5. High Temperature Metals Recovery

a. *Description and Applicability.* The high temperature metal recovery process separates metals from wastes by vaporizing the metals and collecting them. The Waelz kiln method is currently being used on steelmaking electric furnace air pollution control dust (K061). The process may also be applied to certain sludges containing high concentrations of metals.

b. *Basic Principles of Operation.* The metallic wastes that are fed into the kiln are normally in the form of an oxide. Heat is supplied to reduce the oxides to the metallic form and to vaporize the metals. This is not a destructive process, but a conversion to yield a reusable metal product. The Waelz kiln process consists of three steps: (1) the reduction of a metallic oxide, (2) the vaporization of metals, and (3) the recovery of a product. The first two steps are carried out in a kiln where high temperatures and excess carbon reduce the oxides to their metallic form. The primary reaction can be described as:

$$MO + C \rightarrow M + CO$$

where M = metal

Once in their metallic form, the more volatile metals leave the kiln in the air stream where they are reoxidized as particulates and collected in a baghouse. The residual material, stripped of the more volatile metals, is quenched and collected. Both residuals and baghouse

[1] The classical method for cyanide analysis (Method 9010 in EPA Publication SW-846) will detect both free cyanide and cyanide complexes with the exception of the cobalt-cyanide complex. Cyanate is not detected by this method. Cyanate will not form volatile hydrogen cyanide under the distillation procedures and it will not respond to the colorimetric procedure normally used to detect cyanide.

dust may have potential value as products.

c. *Waste Characteristics Affecting Performance.* The recovery of metals from wastes using high temperature processes is dependent on the initial concentration of certain metals and the presence of impurities. These waste characteristics determine whether the process can yield a reusable metal product.

If the initial concentration of recoverable metals in the waste is low, then the purity of the product may also be low. The ability to concentrate a specific metal from a waste to an enriched product is limited when other metals are present. Depending on the concentration of metals to be recovered relative to the concentration of other constituents, the product may not be suitable for reuse.

If the waste contains many metals with similar volatilities, then the product will contain a mixture of these metals. This product may not be reusable if the metals present are incompatible to the reuse. The removal or separation of impurities may not be possible, especially at low concentrations where they may be fixed into a matrix. Operation at higher temperatures may break these bonds, but this could lead to the presence of greater amounts of impurities in the product.

d. *Design and Operating Parameters Affecting Performance.* For the high temperature recovery of metals, the important design and operating parameters are the temperature in the kiln and the residence time.

The reduction of various metallic oxides and the volatilization of the metals occur at different temperatures. An increase in temperature will improve the removal of some constituents, but less volatile metals could also be liberated from the waste if they are present. The exact operating temperature is directly dependent upon the metals present in the waste and the metals being recovered.

The residence time of the material in the kiln also impacts the removal of metals from the waste. Adequate time must be provided for the reduction and volatization of the metals to allow maximum recovery. Due to the temperature dependency of the reactions, the residence time must also be optimized for the waste being fed to the kiln. The residence time is dependent upon the dimensions of the kiln and can be adjusted by varying the rate of rotation and the feed rate.

6. Filtration

a. *Description and Applicability.* Filtration is the operation in which a heterogeneous mixture of fluids and particles are separated by a filter medium that permits the flow of the fluid through the medium, but retains the particles.

Treatment of wastewater for removal of solid particles can be accomplished using either "in-depth" filtration (particles are trapped within the filter medium) or "cake-formation" filtration (filtered solids are stopped at the surface of the medium and buildup on one another to form a cake of increasing thickness). Typically, wastewaters with low concentrations of solid particles (generally below 1,000 ppm) employ in-depth filtration. Wastewaters or sludges with high concentrations of solid particles employ cake-formation filtration. This is commonly known as sludge dewatering. Sludge dewatering is described separately in Section V(B)(7).

In-depth filtration is used to process wastewaters containing relatively low concentrations of solids. Multimedia filtration, pressure or gravity sand filtration, and cartridge filtration are some of the types of equipment used for in-depth filtration. In-depth filtration is typically used as a polishing step for the supernatant after precipitation and settling (clarification) of wastewaters containing metal hydroxide precipitates.

b. *Basic Principals of Operations.* For in-depth filtration, the liquid to be filtered may flow by gravity or under pressure to the filter. For relatively large volume flows granulated media (such as sand or anthracite coal) are used to trap suspended solids within the pore spaces of the media. Wastewater is filtered until excessive pressure is required to maintain the flow or until the flow drops to an unacceptable level. Granular media in-depth filters are cleaned, after they are exhausted, by backwashing with filtered water that has been saved for that purpose. (Backwashing is always upflow to loosen the media granuals and resuspend the entrapped solids.) The backwash water, which may be as much as 10 percent of the volume of the filtered wastewater, is then returned to the treatment system, so that the solids in the backwash water can be settled in the system clarifier.

For relatively low flows, cartridge in-depth filtration can be used. In this case a cylindrically shaped filter media cartridge, such as a matted cloth, is placed within a sealed metal vessel. Wastewater is pumped through the cartridge until the flow drops excessively because of plugging of the media or until the pumping pressure becomes too high. The sealed vessel is then opened and the plugged cartridge removed and replaced with a new cartridge. The plugged cartridge is disposed.

In-depth filtration is capable of removing suspended solids in order to produce a filtrate (effluent) having only a few ppm suspended solids. Hence, if the suspended solids in the influent included insoluble metal hydroxides formed by chemical precipitation, then they could be removed to less than a few ppm.

c. *Waste Characteristics Affecting Performance.* The following characteristics of the waste will affect performance of an in-depth filter:

- Concentration of suspended material;
- Size of suspended particles; and
- Presence of grease and oils.

(i) Concentration—The higher the concentration of suspended solids in the wastewater to be filtered, the more quickly the filter will require backwashing (or removal of the cartridge). Hence, the size of the filter and/or the length of the filtering cycle will be affected.

(ii) Size of particles—Extremely small particles, in the collidal range, may not be filtered effectively in an in-depth filter and may appear in the filtrate (effluent). To mitigate against this problem, the wastewater clarification system should be modified prior to filtration by the use of appropriate coagulants, modified coagulant dosage, or different chemical precipitation techniques (for instance, lime neutralization usually produces larger particles than caustic soda precipitation).

(iii) Grease and oil—While grease and oils may be, in fact, effectively filtered, and while they may not reduce the effectiveness of filtering suspended solids, they may eventually coat filter media particles in granulated media filters, reducing the length of filter cycles by preventing effective backwashing. To the extent possible, grease and oil should be removed prior to filtration. If they cannot be removed, special backwashing techniques using detergents may be required.

d. *Design and Operating Variables that Affect Performance.* For in-depth filters, the following design and operating variables affect performance:

- Type of filter selected;
- Size of filter selected;
- Pressure of wastewater feed;
- Use of coagulants or filter aids, and
- Backwash technique.

(i) Type of filter—As noted earlier, the two main types of filters are granular media and cartridge. While they are both in-depth, cartridge depth is rarely more than an inch and is suited only to

low volume wastewaters and/or those with extremely low suspended solids. Usually, to develop the expected cycle time prior to cartridge disposal, several cartridges are placed in parallel. For granulated media filtration, a variety of media types and sizes are available. Also, some granulated media filters feed wastewater from the bottom up and others from the top down. (They are all backwashed from the bottom up.) Typically, when more than one media is used in the same filter (such as graded sand and anthracite coal), a greater capacity can be expected from a given size filter bed. Typically, upflow filtration will allow higher flowrates and trap more particles, but there is the danger of channelling (producing a "hole" in the filter bed through which unfiltered water will flow). The choice of type of filter is usually based on a combination of wastewater characteristics and economics.

(ii) Size of filter—Clearly, the larger the size of a filter, the more wastewater it will accommodate prior to back-washing or filter replacement. This affects performance only in that it may limit the hydraulic capacity of the entire treatment system.

(iii) Pressure of wastewater feed—Again, the higher the filtration pressure, the more rapidly filtration can take place. In any case, once design pressure is reached, the filter must be backwashed or the cartridges must be replaced, thus affecting cycle time and the overall hydraulic capacity of the treatment system.

(iv) Use of coagulants—Coagulants and filter aids can be added to the influent. Generally, these materials make very small particles larger and/or gelatinous particles less gelatinous. Filter runs can thus be lengthened and the clarity of the filtrate should be increased.

(v) Backwash techniques—Backwashing is applicable only to granular media filters, not to cartridge types. If backwash flows are too high, they may "fluidize" the media bed and wash away the filter media. If flow is too low, it may not expand the bed adequately and not remove all of the particles trapped in the fliter media pores. In addition, if after a period of time backwashing becomes ineffective, the addition of detergents and surfactants to the backwash water may be necessary to clean the media bed of greases, oils, and other adherent materials.

7. Sludge Dewatering

a. *Description and Applicability.* This section presents a brief description of sludge dewatering, or cake-formation filtration, that differentiates the technology from in-depth filtration which is presented Section V(B)(6). Cake-formation filtration is applied to sludges, typically those that have settled to the bottom of clarifiers, for additional dewatering. These sludges, which usually contain more than 10,000 ppm suspended solids, can be dewatered to 20 to 50 percent solids.

b. *Basic Principles of Operation.* For cake-formation filtration, settled sludge is either pumped through a cloth-type filter media (such as in a plate and frame filter that allows solid "cake" to build up on the media) or the sludge is drawn by vacuum through the cloth media (such as on a drum or vacuum filter, which also allows the solids to build). In both cases the solids themselves act as a filter for subsequent sludge solids. For a plate and frame type filter, when excessive pressure is required to force the sludge through the media, the filter is opened and the cake is removed for disposal or recovery (or additional treatment, if necessary). For the vacuum type filter, cake is removed continuously after as much water as possible has been drawn out of it. In both types of cake-formation filtration the liquid passing through the filter media is usually too high in suspended solids to be discharged to receiving streams, so it is returned to the treatment system. Also, for a specific sludge, the plate and frame type filter will usually produce a drier cake than a vacuum filter. Other types of cake-formation filters, such as belt filters, are also used for effective sludge dewatering.

c. *Waste Characteristics Affecting Performance.* The following characteristics of the waste will affect performance of a cake-formation type of filter:

- Concentration of suspended material;
- Size of particles; and
- Type of particles.

(i) Concentration—For plate and frame type filters, the more concentrated the inlet solids, the more rapidly cake will build up and the shorter the operating cycle will be. Consequently, these types of pressure filters should be sized accordingly. For vacuum filtration, a cake may not form at all if a minimum solids concentration does not exist in the influent. The higher the influent solids for a vacuum filter, the more firm and more dewatered will be the cake.

(ii) Size of particles—The smaller the particle size, the more the particles tend to go through the filter media. This is expecially true for a vacuum filter. Since the filtrate is usually returned to the treatment system, this tends not to be a major concern unless significantly more particles to through the filter than are trapped on it. For a pressure filter (like a plate and frame), smaller particles may require higher pressures for equivalent throughput, since the smaller pore spaces between particles create resistance to flow.

(iii) Type of particles—Some solids formed during metal precipitation are gelatinous in nature and cannot be dewatered well by cake-formation filtration. In fact, for vacuum filtration a cake may not form at all. In most cases solids can be made less gelatinous by use of the appropriate coagulants and coagulant dosage prior to clarification, or after clarification but prior to filtration. In addition, the use of lime instead of caustic soda in metal precipitation will reduce the formations of gelatinous solids. Also the addition of filter aids to a gelatinous sludge, such as lime or diatomaceous earth, will help significantly. Finally, precoating the filter with diatomaceous earth prior to sludge filtration will assist in dewatering gelatinous sludges.

d. *Design and Operating Variables that Affect Performance.* For cake-formation filters, the following design and operating variables affect performance:

- Type of filter selected;
- Size of filter selected;
- Feed pressure (not applicable to vacuum filters); and
- Use of coagulants or filter aids.

(i) Type of filter—Typically, pressure type cake-formation filters (such as a plate and frame) will yield a drier cake than a vacuum type filter and will also be more tolerant of variations in influent sludge characteristics. Pressure type filters, however, are batch operations, so that when cake is built up to the maximum depth physically possible (constrained by filter geometry), or to the maximum design pressure, the filter is turned off while the cake is removed. A vacuum filter is a continuous device (i.e., cake discharges continuously), but will usually be much larger than a pressure filter with the same capacity. A hybrid device is a belt filter, which mechanically squeezes sludge between two continuous fabric belts.

(ii) Size of filter—As with in-depth filters, the larger the filter, the greater its hydraulic capacity and the longer the filter runs between cake discharge.

(iii) Feed pressure—For plate and frame filters, the higher the maximum pressure, the drier the cake, and the longer the runs prior to cake discharge. It must be noted, however, that for gelatinous solids, excessive pressures may cause the solids to compress in

such a way as to blind the filter and not allow additional sludge to be filtered. For vacuum filters, the maximum amount of vacuum applied is usually not very variable and is limited to about 20 to 25 inches of mercury. Hence, differential pressure is usually not a significant variable in vacuum filtration.

(iv) Use of coagulants—Coagulants and filter aids may be mixed with filter feed prior to filtration, as was the case with in-depth filters. However, their effect is much more dramatic with cake-formation filters, in that it may make the difference in a vacuum filter between no cake and a relatively dry cake. In a pressure filter, coagulants and filter aids will also significantly improve hydraulic capacity and cake dryness. Filter aids, such as diatomaceous earth, can be precoated on cake-formation filters (vacuum or pressure) for particularly difficult to filter sludges. The precoat layer acts somewhat like an in-depth filter in that sludge solids are trapped in the precoat pore spaces. Use of precoats and most coagulants or filter aids significantly increases the amount of sludge solids to be disposed of. However, polyelectrolyte coagulant usage usually does not increase sludge volume significantly because the dosage is low.

8. Ion Exchange

a. *Description and Applicability.* Ion exchange refers to a technology which removes positively charged ions (cations) or negatively charged ions (anions) from solutions and replaces them with other, more desirable, cations or anions.

The ion exchange treatment system consists of a column (or bed) filled with either cation exchange resin or anion exchange resin, through which the wastewater is pumped, usually on a continuous basis. Where it is desired to remove both cations and anions, the cation and anion exchangers are placed in series. (On some specialized systems, both cation and anion exchange resin are contained in the same column.) Additional equipment required are chemical feed systems and pumps used to regenerate the ion exchange columns when they have exhausted their capacity to remove ions.

Cation exchange is applicable to removal of all metal cations in relatively dilute solutions. (Typically, concentrated metal solutions will be pretreated first by chemical precipitation.) Anion exchange is applicable to removal of anionic forms of metals (e.g., chromates and metal complexes) in dilute solutions. It is important to note that a relatively small volume of concentrated wastewater is produced when regenerating an ion exchanger. This concentrated waste stream may be treated for disposal by chemical precipitation and chrome reduction as applicable. If appropriate, it may also be recycled for metal recovery.

b. *Basic Principles of Operation.* An ion exchange resin consists of beads of natural or synthetic material to which either anions or cations are chemically bound. For instance, in a typical cation exchanger the ions are either sodium or hydrogen. When the resin is exposed to a solution containing ions of similar charge, the ions are exchanged for the ions in solution. For instance, if a nickel containing solution is pumped through a sodium-based cation exchanger, the nickel will be removed from solution and replaced with sodium. When the resin is exhausted, and the desired ions are no longer removed from solution (called "breakthrough"), the exchange resin is regenerated by passing a relatively low volume of a very concentrated (percent range) regenerant solution through the column. For instance, in the case of a sodium-based resin, a strong solution of sodium chloride is typically the regenerant solution. The regenerant solution forces the previously removed ions back into solution. This relatively low volume solution, now highly concentrated with the contaminants, must then be treated prior to disposal or for recovery of the cation or anion contaminants. The concentrated metal cations are usually treated by chemical precipitation. Chromates (anions) are reduced to trivalent chromium and then chemically precipitated. Trace cyanides (anions) or metal/cyanide anion complexes may be treated by cyanide oxidation.

c. *Waste Characteristics that Affect Performance.* The waste characteristics that affect performance of ion exchange systems are:

- the concentration and valence of the contaminant in the wastewater;
- The concentration and valence of other ions in the wastewater with the same charge as the contaminant (i.e., positive or negative);
- The amount of suspended solids in the wastewater; and
- The corrosiveness of the wastewater relative to the resin material.

(i) As the concentration and valence of adsorbable ions in the wastewater increases, the size of the resin bed required will increase, or alternatively, the bed will become exhausted more rapidly. This is because a given amount of ion exchange resin has only a specific number of sites at which it can adsorb charged ions. Hence, if the valence is doubled, the sites are used twice as quickly. The same is true if the concentration is doubled.

(ii) Other ions in the wastewater with the same charge as the contaminant will compete for exchange sites on the resin. Hence, a low concentration of the contaminant of concern may be readily removed from a solution with low concentrations of other similarly charged ionic species, but the contaminant will not be removed as efficiently from solutions where high concentrations of similarly charged ions exist. Even if the ion of concern is removed effectively from a solution with high concentrations of similarly charged ions, the resin will become exhausted more rapidly, since it cannot differentiate between the contaminant and similarly charged ionic species.

(iii) Conventional ion exchange systems are downflow, i.e., the wastewater flows down through the resin bed. (Typically, regeneration is accomplished in the upflow mode.) Hence the bed will act as a filtering device. If excessive suspended solids, or grease and oils are contained in the wastewater the bed may clog and require backwashing prior to exhausting its exchange capacity. For some solids or oils backwashing may prove ineffective. Also, some ions tend to oxidize after being removed from solution. For instance Mn^{+2} (manganese) may oxidize to the Mn^{+4} form, which is insoluble. This may permanently foul the exchange sites, so that the resin will require premature replacement.

(iv) Some wastewaters are extremely corrosive to exchange resin materials. For instance strong, hot solutions of chromates will eventually oxidize many resins. Ion exchange capacity will decrease until replacement is required.

d. *Design and Operating Variables Affecting Performance.* The main design and operating parameter that affects the performance of ion exchange systems is the resin quality and quantity. Numerous cation and anion resins are commercially available. Different resins have different exchange capacities, and some have greater affinity than others for specific ions. Certain resins are designed to tolerate corrosive, oxidizing, or high temperature solutions, so that their exchange capacity does not degrade as rapidly with age. Most resins will effectively remove contaminant ions from solutions until they become exhausted. If, however, resin bed exhaustion occurs too frequently, or regeneration requires excessive volumes of regenerant, the type and/or quantity of resin might require changing. In some

instances, pretreatment technologies may be required prior to ion exchange.

When a resin bed is exhausted, this is referred to a "breakthrough", meaning that the ions which were to be removed from the wastewater are no longer being removed. Breakthrough may be detected in many ways. The most common method of detecting breakthrough for hydrogen ion based cation exchangers in series with hydroxyl based anion exchangers is to use an electrical conductivity meter. Before breakthrough, this type of system discharges deionized water, which has very low electrical conductivity. After breakthrough of either or both exchangers, acids, salts, or alkalies will be discharged. These have high conductivities. For hydrogen based cation exchangers or hydroxyl based anion exchangers operating independently (not in series with each other) breakthrough will be indicated by a change in pH, which is easily measured. Prior to breakthrough a hydrogen based cation exchanger discharges an acidic solution. A hydroxyl based anion exchanger discharges an alkaline solution. The pH change in the discharge will rapidly migrate to the pH of the raw waste. For sodium based cation exchangers and chloride based anion exchangers conductivity measurement is also effective in many cases, since the raw waste ions will have a different conductivity than the sodium and/or chloride ions.

The rate at which wastewater is fed to the ion exchanger has little effect on its effectiveness, since ions are adsorbed on the resins almost instantaneously, so long as exchange capacity exists. The limiting factor for the flow rate is the ability of the pump to pump a liquid through a packed resin bed.

C. Treatment Data Summary

This section presents the data reviewed by the Agency that support treatment of California List metals and cyanides to the EP regulatory levels or health-based prohibition levels. Included in this section are a summary of the Agency's available data and information on the treated concentrations of the constituents of concern, waste characteristics, and on design and operating parameters. This section also discusses the Agency's preliminary conclusions with regard to treatment of these wastes to levels equivalent to the EP regulatory level or health-based prohibition levels.

1. Arsenic

a. *Data Summary.* The Agency has three data points on the treatment of arsenic in wastewater from two facilities. These three data points have arsenic concentrations in the treated wastewater lower than the EP regulatory levels of 5.0 mg/l. Table 2 provides a summary of all available data on the treatment of arsenic in wastewater.

The Agency has 11 data points on the treatment of arsenic in waste *other than wastewater* from three facilities. Of the 11 data points, all 11 have arsenic concentrations in the leachate from the treated waste lower than the EP regulatory level of 5.0 mg/l. Table 3 provides a summary of all available data on the treatment of arsenic in waste other than wastewater.

b. *Data Analysis—Wastewater.* (i) Waste Characteristic Analysis. These three data points reflect treatment by chemical precipitation. The Agency has limited data on the range of waste characteristics pertinent to an evaluation of the performance of this technology. The only available waste characterization data that are important for an engineering analysis involve other metals concentrations.

The treatment data show a maximum influent concentration for arsenic of 160 mg/l, while the literature indicates untreated wastes may have concentrations as high as 430 mg/l. As stated previously in Section V(B)(1), high influent metal concentrations, per se, do not adversely affect treatment; however, high metal concentrations often indicate that the metals are complexed in solution and complexed metal compounds, if not dissociated, could have an adverse effect on treatment.

(ii) Design and Operating Parameters Analysis. For the three data points, the Agency has some design and operating data for two treatment points from one facility that document the operation of the treatment system.

(iii) Discussion. The Agency's best engineering judgment is that the EP regulatory level of 5.0 mg/l for arsenic can be met for the full range of California List wastewaters containing arsenic. In support of this position, the Agency points to the theoretical solubility limit of arsenic precipitates, chemical precipitation theory, and our knowledge of the technologies available to minimize the effects of constituents in the waste that can interfere with treatment performance. Additionally, the available data would not lead us to conclude otherwise.

The Agency recognizes the lack of data on the full range of waste characteristics and design and operating conditions that may affect treatment effectiveness. Therefore, we are soliciting data that would aid the Agency in analyzing treatment performance for arsenic in wastewaters. The specific waste characterization data and design and operating data that the Agency needs are described in Section V(E), Request for Comments.

c. *Data Analysis—Waste Other Than Wastewater.* (i) Waste Characteristics Analysis. As stated above in the Data Summary, all 11 data points achieve the EP regulatory level. Each of these uses stabilization technology for treatment. Four of these data points represents bench-scale tests.

For these data points, the Agency has limited information on the range of waste characteristics pertinent to an evaluation of the performance of this technology. Most of the available waste characterization data that are important for an engineering analysis involve other metal concentrations.

The treatment data have a maximum total arsenic concentration of 12,000 mg/kg. The stabilization data for this data point represent bench-scale treatment.

(ii) Design and Operating Parameters Analysis. For the 11 data points, the Agency has limited design and operating data for four treatment points from two facilities. All of these data points represent bench-scale data.

(iii) Discussion. The Agency's best engineering judgment is that the EP regulatory level of 5.0 mg/l for arsenic can be met in leachate for the full range of California List waste other than wastewater. In support of this position, the Agency points to the facility's ability to change the ratio of stabilizing agents to waste quantities as needed to decrease mobility of the constituent; this assumes that an effective stabilizing agent and/or additives are available. Additionally, the curing conditions (e.g., length of cure and ambient conditions) can be controlled to ensure that the waste particles have had sufficient time to form a stable treated waste. Additionally, all the available data show that the EP regulatory level of 5.0 mg/l for arsenic can be achieved.

The Agency recognizes the lack of data on the full range of waste characteristics and design and operating conditions that may affect treatment effectivness. Therefore, we are soliciting data that would aid the Agency in analyzing treatment performance for arsenic in waste other than wastewater. The specific waste characteristic data and design and operating data that the Agency needs are described in Section V(E), Request for Comments.

TABLE 2.—ARSENIC CONCENTRATION DATA FOR WASTEWATER

Source [a]	Industry	Process generating waste	Treatment process	Waste codes [b]	Waste characterization data		Arsenic concentration data	
					Parameter	Concentration (mg/l)	Untreated	Treated
							Total (mg/l)	Total (mg/l)
Bhattacharyya, et al. [1]	Nonferrous metal production.	NAV	Sulfide and lime precipitation.	NAV	Cadmium	3.5	160	1.8
					Lead	6.0		
					Mercury	0.9		
Bhattacharyya, et al. [2]	Nonferrous metal production.	NAV	Sulfide and lime precipitation.	NAV	Cadmium	14	125	1.9
					Lead	75		
					Mercury	0.8		
Nonferrous metals Dev. Doc.	Secondary lead production.	NAV	Hydroxide precipitation, filtration.	D004, D008	Lead	80	6.4	2.9

[a] See Section V(C)(10) for Data Sources.
[b] Waste code as reported in source.
NAV—Not available.

TABLE 3.—ARSENIC DATA FOR WASTE OTHER THAN WASTEWATER

Source [a]	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Arsenic Concentration data			
					Parameter	Concentration	Untreated		Treated	
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
192[b]	NAP	Synthetic waste.	Stabilizations.	NAP	Barium	12,000	NAV	NAV	0.135	
					Cadmium					
					Chromium					
					Lead					
					Mercury					
					Nickel					
					Silver					
					Selenium					
					6,600 mg/kg.					
					10,300 mg/kg.					
					10,900 mg/kg.					
					8,820 mg/kg.					
					11,300 mg/kg.					
					11,100 mg/kg.					
					3,900 mg/kg.					
					7,600 mg/kg.					
192[b]	NAP	Synthetic waste.	Stabilization.	NAP	Barium	3,680 mg/kg	6,400	NAV	NAV	0.139
					Cadmium	5,500 mg/kg				
					Chromium	6,300 mg/kg				
					Lead	3,5800 mg/kg				
					Mercury	600 mg/kg				
					Nickel	5,810 mg/kg				
					Silver	1,760 mg/kg				
					Selenium	4,600 mg/kg				
HAZCO[b]	NAP	Synthetic waste.	Stabilization.	NAP	Cadmium	1,090 mg/kg	2,267	NAV	2,195	<0.5
					Lead	1,872 mg/kg				
					Mercury	1,752 mg/kg				
					Selenium	599 mg/kg				
					Waste lube oil.	858,000 mg/kg.				
					Alcohol	55,000 mg/kg				
					Water	87,000 mg/kg				

TABLE 3.—ARSENIC DATA FOR WASTE OTHER THAN WASTEWATER—Continued

Source *	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Arsenic Concentration data			
					Parameter	Concentration	Untreated		Treated	
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
192[b]	NAP	Synthetic waste.	Stabilization.	NAP	Barium Cadmium Chromium Lead Mercury Nickel Silver Selenium	18 mg/kg 2,400 mg/kg 1,710 mg/kg 1,170 mg/kg 1,060 mg/kg 1,360 mg/kg 290 mg/kg 750 mg/kg	1,100	NAV	NAV	0.028
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	350	NAV	NAV	0.19
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	310	NAV	NAV	0.12
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	287	NAV	NAV	0.48
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	255	NAV	NAV	0.49
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	144	NAV	NAV	0.15
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	120	NAV	NAV	0.21
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	110	NAV	NAV	0.21

*See Section V(C)(10) for Data Sources.
[b]Data represent bench-scale test.
CBI—Confidential Business Information.
NAV—Not applicable.
NAP—Not applicable.

2. Cadmium

a. *Data Summary.* The Agency has 16 data points on the treatment of cadmium in wastewaters from 12 facilities. Of the 16 data points, 15 are usable. One data point cannot be used because the laboratory analysis for the effluent was reported at a detection level greater than the EP regulatory level. Of the 15 data points, 13 have cadmium concentrations in the treated wastewater lower than the EP regulatory level of 1.0 mg/l. Chemical precipitation was the treatment technology used for 14 of the 15 data points; ion exchange was used to treat one waste stream. Table 4 provides a summary of all available data on treatment of cadmium in wastewater.

The Agency has 43 data points on the treatment of cadmium in waste *other than wastewater* from eight facilities. Of the 43 data points, 30 have cadmium concentrations in the leachate from the treated waste that are lower than the EP regulatory level of 1.0 mg/l. Table 5 provides a summary of all available data on cadmium in waste other than wastewater.

b. *Data Analysis—Wastewater.* (i) Waste Characteristic Analysis. Of the 13 points that achieve the EP regulatory level, 12 reflect trreatment by chemical precipitation, the principal technology for treating cadmium in wastewaters. The Agency has limited data on the range of waste characteristics pertinent to an evaluation of the performance of this technology. Most of the available waste characterization data that are important for an engineering analysis involve other metal concentrations.

The treatment data have a maximum influent concentration for cadmium of 240 mg/l, while the literature indicated untreated wastes may have concentrations as high as 5,000 mg/l. As stated in Section V(B)(1), high influent concentrations, per se, do not adversely affect treatment; however, high metal concentrations often indicate that the metals are complexed in solution and complexed metal compounds, if not disassociated, could have an adverse effect on treatment.

(ii) Design and Operating Parameters Analysis. For the 12 data points that achieve the EP regulatory level, the Agency has some design and operating data for four treatment points from two facilities that document the operation of the facility.

(iii) Discussion. The Agency's best engineering judgment is that the EP regulatory level of 1.0 mg/l for cadmium can be met for the full range of California List wastes containing cadmium. In support of this position, the Agency points to the theoretical solubility limit of cadmium precipitates, chemical precipitation theory, and our knowledge of the technologies available to minimize the effects of constituents in the waste that can interfere with treatment performance. Additionally, the available data would not lead us to conclude otherwise.

In the case of the data point that does not show achievement of the EP regulatory level, the Agency looked at the waste characteristics and treatment design and operation to determine why these values were not attained. Relative to waste characteristics, the waste exhibited high oil and grease and high total dissolved solid values. These parameters can adversely affect the effectiveness of the treatment. We expect that preliminary treatment, such as oil-water separation and/or emulsion breaking, can remedy any problems associated with high oil and grease content. Reducing the high TDS value can be accomplished using ion exchange, but can be a difficult problem to resolve. With regard to our analysis of the design and operation of the treatment system used, the Agency had no data to show that the treatment

system was designed and operated properly; therefore, we cannot conclude that the EP regulatory level is not attainable.

The Agency recognizes the lack of data on the full range of waste characteristics and design and operating conditions that may affect treatment effectiveness. Therefore, we are soliciting data that would aid the Agency in analyzing treatment performance for cadmium in wastewaters. A description of the specific waste characterization data and design and operating data that the Agency needs can be found in Section V(E), Request for Comments.

c. *Data Analysis—Waste Other than Wastewater.* (i) Waste Characteristics Analysis. As stated above in the data summary, 30 of the 43 data points achieve the EP regulatory level. Each of these uses stabilization technology for treatment.

Of the 30 data points that achieve the EP regulatory levels, the Agency has limited data on the range of waste characteristics pertinent to an evaluation of the performance of this technology. Most of the available waste characterization data that are important for an engineering analysis involve other metals and oil and grease concentrations. For the wastes where EP regulatory levels were achieved, the maximum total cadmium concentration was 31,200 mg/kg. The stabilization data for this data point represent bench scale treatment results.

(ii) Design and Operating Parameters Analysis. For the 30 data points that achieve the EP regulatory levels, the Agency has limited design and operating data for six treatment points from four facilities. Three of the data points represent bench scale experimental data.

(iii) Discussion. The Agency's best engineering judgment is that the EP regulatory level of 1.0 mg/l for cadmium can be met in leachate for the full range of California List waste other than wastewater. In support of this position, the Agency points to facility's ability to change the ratio of stabilizing agents to waste quantities as needed to decrease mobility of the constituent; this assumes that an effective stabilizing agent and/or additives are available. Additionally, the curing conditions (e.g., length of cure and ambient conditions) can be controlled to ensure that the waste particles have had sufficient time to form a stable treated waste. Additionally, the Agency's evaluation of the available data would not lead us to conclude otherwise.

In the cases where the treated waste leachate did not achieve the EP regulatory level, the Agency looked at the waste characteristics and treatment design and operation to determine why these values were not attained. Relative to waste characteristics, one of the 13 data points had untreated waste with a high oil and grease content that could have had an adverse affect on the performance of the stabilization technology. Oil and grease can be removed by emulsion breaking or separation in a pretreatment step. For another of the data points that do not achieve the EP regulatory level, the initial concentration is three times the next highest concentration that achieves the EP regulatory levels (98,000 mg/kg vs. 31,200 mg/kg). However, the leachate concentration for this data point is so much higher than for the other data point (98 mg/l vs. <0.01 mg/l) that we believe that stabilization process is not properly designed. EPA has no other waste characteristic data on these data points or other data points, to determine why the EP regulatory levels were not achieved. Relative to analysis of the design and operation of the treatment systems used, the Agency had no data to determine whether poor design or operation contributed to the failure of the systems to achieve the EP regulatory levels.

The Agency recognizes that we lack data on the full range of waste characteristics and design and operating conditions that may affect treatment effectiveness. Therefore, we are soliciting information to aid the Agency in analyzing treatment performance for cadmium in wastes other than wastewater. The specific waste characteristics data and design and operating data that the Agency needs are described in Section V(E), Request for Comments.

TABLE 4.—CADMIUM DATA FOR WASTEWATER

Source*	Industry	Process generating waste	Treatment process	Waste codes[a]	Waste characterization data		Cadmium concentration data	
					Parameter	Concentration (mg/l)	Untreated	Treated
							Total (mg/l)	Total (mg/l)
Battery manufacturing dev. doc.	Lead battery manufacturing.	NAV	Ferrite co-precipitation.	NAV	Lead Mercury Nickel	475 7.4 1,000	240	0.008
Frontier Chemical Company.	Batter manufacture.	NAV	Lime precipitation, filtration, carbon adsorption.	D002 D007	Lead TOC Oil & grease TSS TDS Nickel	1.1–3.8 5600–19000 2600–18000 2400–60000 10000–170000 4.3–500	3.9–180	0.15–1.4
Chem Pro Inc.	NAV	NAV	Chemical precipitation.	NAV	Oil & grease	150 mg/kg.	88	0.7
Envirite [4]	TSDF	NAV	Chemical precipitation, filtration.	F006 K062 D003	Chromium Copper Lead Zinc Nickel Oil & grease	617 137 136 135 382 322	23	<5
Bhattacharyya, et al. [2].	Nonferrous metal production.	NAV	Sulfide and lime precipitation.	NAV	Arsenic Lead Mercury	125 75 0.8	14	<0.01

TABLE 4.—CADMIUM DATA FOR WASTEWATER—Continued

Source[+]	Industry	Process generating waste	Treatment process	Waste codes[a]	Waste characterization data		Cadmium concentration data	
					Parameter	Concentration (mg/l)	Untreated	Treated
							Total (mg/l)	Total (mg/l)
Envirite [1]	TSDF	NAV	Chemical precipitation, filtration.	F006 K062 D003 D002	Zinc Hex. Chrom. Chromium Copper Lead Nickel Oil & grease	116 893 2581 138 64 471 28.4	13	<0.15
Envirite [2]	TSDF	NAV	Chemical precipitation, filtration.	F006 K062 D003 D002	Nickel Hex. Chrom Chromium Copper Lead Oil & grease	470 807 2279 133 54 54	10	<0.5
Envirite [3]	TSDF	NAV	Chemical precipitation, filtration.	F006 K062	D003 D002	Lead Hex. Chrom. Chromium Copper Nickel Zinc Oil & grease	108 769 2314 72 426 171 113	10
Nonferrous metals, dev. doc.	Secondary lead production.	NAV	Hydroxide precipitation, filtration.	D004 D008	Lead	80	6.4	2.9
Battery manufacturing dev. doc.	Lead battery manufacturing.	NAV	Ion exchange	NAV	Hex. chrom. Cyanide Nickel	7.1 9.8 6.2	5.7	<0.01
Battery manufacturing dev. doc.	Lead battery manufacturing.	NAV	Hydroxide precipitation, sedimentation.	NAV	NAV	NAV	3.8	0.08
Bhattacharyya, et al. [1].	Nonferrous metal production.	NAV	Sulfide and lime precipitation.	NAV	Arsenic Lead Mercury	160 6.0 0.9	3.5	<0.02
Battery manufacturing dev. doc.	Lead battery manufacturing.	NAV	Hydroxide precipitation.	NAV	NAV	NAV	2.8	0.055
Batter manufacturing dev. doc.	Zinc battery manufacturing.	NAV	Lime precipitation, settling, filtration.	NAV	Mercury Nickel	100 1100	2.04	0.067
Metal finishing dev. doc.	Metal finishing	NAV	Chemical precipitation, sedimentation.	NAV	NAV	NAV	1.88	0.018
Metal finishing dev. doc.	Metal finishing	NAV	Chemical precipitation, sedimentation.	NAV	NAV	NAV	1.0	0.015

[+] See section V(C)(10) for Data Source.
[a] Waste codes as reported in source.
NAV—Not available.

TABLE 5.—CADMIUM DATA FOR WASTE OTHER THAN WASTEWATER

Source [1]	Industry	Process generating waste	Treatment process	Waste codes [2]	Waste characterization data		Cadmium concentration data			
					parameter	concentration	Untreated		Treated	
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
CBI	CBI	CBI	Stabilization.	NAV [5]	CBI [7]	CBI	98000	[4] NAV	NAV	98
UNH [3]	NAP	Synthetic waste.	Stabilization.	NAP [6]	NAV	NAV	[4] 31200	NAV	NAV	<0.01

TABLE 5.—CADMIUM DATA FOR WASTE OTHER THAN WASTEWATER—Continued

Source [1]	Industry	Process generating waste	Treatment process	Waste codes [2]	Waste characterization data		Cadmium concentration data			
					parameter	concentration	Untreated		Treated	
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
UNH [3]	NAP	Synthetic waste.	Stabilization.	NAP	NAV	NAV	[4] 15600	NAV	NAV	<0.01
192 [3]	NAP	Synthetic waste.	Stabilization.	NAP	Barium Chromium Lead Mercury Nickel Silver Arsenic Selenium	6600 mg/kg	10900 mg/kg 8820 mg/kg 11300 mg/kg 11100 mg/kg 3900 mg/kg 12000 mg/kg 7600 mg/kg	10300	NAV	NAV
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	9900	NAV	NAV	3.39
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	9900	NAV	NAV	41.6
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	7104	NAV	NAV	0.037
192 [3]	NAP	Synthetic waste.	Stabilization.	NAP	Barium Chromium Lead Mercury Nickel Silver Arsenic Selenium	3680 mg/kg 6300 mg/kg 3580 mg/kg 600 mg/kg 5810 mg/kg 1760 mg/kg 6400 mg/kg 4600 mg/kg	5500	NAV	NAV	8.7
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	4100	NAV	NAV	49.0
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	3940	NAV	NAV	6.84
UNH [3]	NAP	Synthetic waste.	Stabilization.	NAP	NAV	NAV	[4] 3120	NAV	NAV	<0.01
192 [3]	NAP	Synthetic waste.	Stabilization.	NAP	Barium Chromium Lead Mercury Nickel Silver Arsenic Selenium	18 mg/kg 1710 mg/kg 1170 mg/kg 1060 mg/kg 1360 mg/kg 290 mg/kg 1100 mg/kg 750 mg/kg	2400	NAV	NAV	3.3
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1210	NAV	NAV	0.02
HAZCO [3]	NAP	Synthetic waste.	Stabilization.	NAP	Arsenic Lead Mercury Seleium Waste lube oil. Alcohol Water	2267 mg/kg 1872 mg/kg 1752 mg/kg 599 mg/kg 858000 mg/kg. 55000 mg/kg 87000 mg/kg	1090	NAV	10563.1	
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	617	NAV	NAV	1.05

617	EAF steel production.	EAF steel production.	Stabilization.	K061	Lead Nickel TOC Oil & greese	38000 ppm 200 ppm 0.03–0.04% 0.04–0.06%	600	NAV	NAV	0.02–0.03
688	EAF steel production.	EAF steel production.	Stabilization.	K061	Lead Oil & greese TOC	33618 mg/kg 18–127 102–168 mg/kg.	537–591	NAV	217–265.	0.03–0.04
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	524	NAV	NAV	0.03
192	TSDF	NAV	Lime neutralization,. Chemical fixation,. Stabilization.	K062 D002	Lead Nickel pH	0.12–204 mg/kg. 30–124.8 mg/kg. <1–7.0	[8] 0.11–310	NAV	[8] 6.0	0.02–0.03
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	286	NAV	NAV	0.49
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	241	NAV	NAV	4.19
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	211.0	NAV	NAV	0.29
681	EAF steel production.	EAF steel production.	Stabilization.	K061	Arsenic Lead Selenium	50mg/kg 15000 mg/kg 70 mg/kg	200	1.4	<200	<0.02–0.02
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	160.4	NAV	NAV	0.042
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	100	NAV	NAV	3.35
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	88.1	NAV	NAV	0.035
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	84	NAV	NAV	0.08
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	80	NAV	NAV	1.14
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	77	NAV	NAV	0.02
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	54.1	NAV	NAV	0.052
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	49	NAV	NAV	0.11
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	38.1	NAV	NAV	0.051
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	38	NAV	NAV	0.06
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	38	NAV	NAV	0.16
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	36.5	NAV	NAV	0.029
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	35.6	NAV	NAV	0.137
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	34	NAV	NAV	0.04
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	33.1	NAV	NAV	0.024
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	27.4	NAV	NAV	0.025
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	27	NAV	NAV	0.035
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	24.3	NAV	NAV	0.028
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	21	NAV	NAV	0.3
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	20.6	NAV	NAV	0.017

[1] See section V(C)(10 for Data Sources
[2] Waste codes as reported in source.
[3] Data represent bench-scale test.
[4] Cadmium concentration in sludge given in test as mg/l. Converted to mg/kg assuming typical sludge density of about 100 lb/ft [3].
[5] NAV—Not available.
[6] NAP—Not applicable.
[7] CBI—Confidential business information.
[8] mg/l

3. Hexavalent Chromium

a. *Data Summary.* The Agency has seven data points on the treatment of hexavalent chromium in wastewater from four facilities. Of the seven data points, all have hexavalent chromium concentrations in the treated wastewater lower than the EP regulatory level of 5.0 mg/l. Table 6 provides a summary of all available data for the treatment of hexavalent chromium in wastewater.

Chemical reduction was the treatment technology used for six of the data points. Ion exchange was applied in the case of the other data point.

The Agency has seven data points for the treatment of hexavalent chromium in waste *other than wastewater* from two facilities. Stabilization was identified as the treatment technology for all of the data points. Of the seven data points, two have hexavalent chromium concentrations in the leachate from the treated waste that are lower than the EP regulatory level of 5.0 mg/l. Table 7 provides a summary of all available data on the treatment of hexavalent chromium in waste other than wastewater.

b. *Data Analysis—Wastewater.* (i) Waste Characteristic Analysis. Of the seven points, six reflect treatment by chemical reduction. The Agency has limited data on the range of waste characteristics pertinent to an evaluation of the performance of this technology. Most of the available waste characterization data that are important for an engineering analysis involve other reducible compounds (mainly metals) in the waste.

The treatment data have a maximum influent concentration for hexavalent chromium of 1,230 mg/l, while the literature indicates untreated wastes may have concentrations as high as 270,000 mg/l. The Agency believes that high hexavalent chromium concentrations, per se, do not adversely affect treatment by hexavalent chromium reduction. Proper adjustment of the reagent dose and sufficient residence time to allow the reaction to go to completion should provide adequate treatment for the range of untreated waste concentrations that the Agency would expect.

(ii) Design and Operating Parameters Analysis. For the seven data points, the Agency has some design and operating data for four treatment points from one facility that can be used to document the operation of the facility.

(iii) Discussion. The Agency's best engineering judgment is that the EP regulatory level of 5.0 mg/l for hexavalent chromium can be met for the full range of California List wastewaters containing hexavalent chromium. In support of this position, the Agency points to chemical reduction theory and our knowledge of the technologies available to minimize the effects of constituents in the waste that can interfere with treatment performance. Additionally, the available data would not lead us to conclude otherwise.

The Agency recognizes that we lack data on the full range of waste characteristics and design and operation conditions that may affect treatment effectiveness. Therefore, we are soliciting information to aid the Agency in analyzing treatment performance for hexavalent chromium in wastewater. The specific waste characterization data and design and operating data that the Agency needs are described in Section V(E), Request for Comments.

c. *Data Analysis—Waste Other than Wastewater.* (i) Waste Characteristic Analysis. As stated above in the data summary, only two of the seven available data points achieve the EP regulatory level for hexavalent chromium. Each of these uses stabilization technology for treatment. The treatment data have a maximum influent concentration for hexavalent chromium of 709,970 mg/kg.

The Agency has no waste characteristics data pertaining to the performance of stabilization for the data reported in Table 7.

(ii) Design and Operating Parameters Analysis. Of the seven data points, the Agency has design and operating data for six of the treatment points to document the operation of the bench scale tests. The design and operating data cover all parameters of the stabilization treatment process that the Agency believes to be significant. However, information was not provided as to the basis of the design conditions and, therefore, it is not possible to determine if the system was optimized.

(iii) Discussion. While data are limited, the concentration of hexavalent chromium in the leachate tended to increase as the concentration in the waste increased. The Agency believes that the performance of stabilization on wastes containing hexavalent chromium is adversely affected by the high solubility of hexavalent chromium compounds, and that treatment of these wastes by hexavalent chromium reduction is the recommended alternative. EP regulatory levels can be attained after the application of chemical reduction technology.

TABLE 6. HEXAVALENT CHROMIUM DATA FOR WASTEWATER

Source [a]	Industry	Process generating waste	Treatment process	Waste codes [b]	Waste characterization data		Hexavalent chromium concentration data	
					Parameter	Concentration (mg/l)	Untreated	Treated
							Total (mg/l)	Total (mg/l)
Envirite [1]	TSDF	NAV	Chemical reduction	F006 K062 D003 D002	Cadmium Nickel Chromium Copper Lead	10 470 2279 133 54	1230	0.19
Envirite [2]	TSDF	NAV	Chemical reduction	F006 K062 D003 D002	Cadmium Chromium Copper Lead Nickel Zinc	10 2314 72 108 426 171	1180	0.121

TABLE 6. HEXAVALENT CHROMIUM DATA FOR WASTEWATER—Continued

Source [+]	Industry	Process generating waste	Treatment process	Waste codes [a]	Waste characterization data		Hexavalent chromium concentration data	
					Parameter	Concentration (mg/l)	Untreated	Treated
							Total (mg/l)	Total (mg/l)
Envirite [3]	TSDF	NAV	Chemical reduction	F006 K062 D003 D002	Cadmium Zinc Chromium Copper Lead Nickel Zinc	13 116 2581 138 64 471 116	1100	0.011
Envirite [4]	TSDF	NAV	Chemical reduction	F006 K062 D003	Zinc Nickel Chromium Copper Lead	71 1414 2236 91 18	1070	0.058
Battery manufacturing.	Lead battery manufacturing.	NAV	Chemical reduction	NAV	NAV	NAV	25.6	<0.014
Battery manufacturing.	Lead battery manufacturing.	NAV	Chemical reduction	NAV	NAV	NAV	11.45	<0.005
Battery manufacturing.	Lead battery manufacturing.	NAV	Ion exchange	NAV	Cadmium Cyanide Nickel	5.7 9.8 6.2	7.1	0.01

[+] See Section V(C)(10) for Data Sources.
[a] Waste codes as reported in source.
NAV—Not available.

TABLE 7. HEXAVALENT CHROMIUM DATA FOR WASTE OTHER THAN WASTEWATER

Source [+]	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Hexavalent chromium concentration data			
					Parameter	Concentration	Untreated	Treated		
								Total EP-Tox (mg/kg) (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
CBI	CBI	CBI	Stabilization	NAV	CBI	CBI	709,970	NAV	NAV	100
UNH [b] [1]	NAP	Synthetic waste.	Stabilization	NAP	NAV	NAV	45,000	NAV	NAV	56.3
UNH [b] [2]	NAP	Synthetic waste.	Stabilization	NAP	NAV	NAV	45,000	NAV	NAV	158.5
UNH [b] [3]	NAP	Synthetic waste.	Stabilization	NAP	NAV	NAV	23,900	NAV	NAV	13.5
UNH [b] [4]	NAP	Synthetic waste.	Stabilization	NAP	NAV	NAV	23,900	NAV	NAV	60.7
UNH [b] [5]	NAP	Synthetic waste.	Stabilization	NAP	NAV	NAV	4,950	NAV	NAV	1.3
UNH [b] [6]	NAP	Synthetic waste.	Stabilization	NAP	NAV	NAV	4,950	NAV	NAV	4.5

[+] See Section V(C)(10) for Data Sources.
[b] These data represent bench-scale test.
NAV—Not available.
NAP—Not available.
CBI—Confidential Business Information.

4. Lead

a. *Data Summary.* The Agency has 16 data points on the treatment of lead in wastewater from ten facilities. Of the 16 data points, 15 have lead concentrations in the treated wastewater lower than the EP regulatory level of 5.0 mg/1. Of the 15 points that achieve the EP regulatory level, all reflect treatment by chemical precipitation. Table 8 provides a summary of all available data for the treatment of lead in wastewaters.

The Agency has 94 data points on the treatment of lead in waste *other than wastewater* from nine facilities. Of the 94 data points, 90 have lead concentrations in the leachate from the treated waste lower than the EP regulatory level of 5.0 mg/1. Of the 90 points that achieve the EP regulatory level, all reflect treatment by

stabilization. Table 9 provides a summary of all available data on lead in waste *other than wastewater.*

b. *Data Analysis—Wastewater.* (i) Waste Characteristic Analysis. Of the 15 data points that achieve the EP regulatory level, all reflect treatment by chemical precipitation, the principal technology for treating lead in wastewaters. The Agency has limited data on the range of waste characteristics pertinent to an evaluation of the performance of this technology. Most of the available waste characterization data that are important for an engineering analysis involve other metal concentrations.

For the one data point where the EP regulatory level was not achieved, the influent level was 1,900 mg/1. As stated previously in Section V(B)(1), high influent concentrations, per se, do not adversely affect treatment; however, high influent metal concentrations often are an indication that the metals are complexed in solution and complexed metal compounds, if not dissociated, could have an adverse effect on treatment.

(ii) Design and Operating Parameter Analysis. For the 15 data points that achieve the EP regulatory level, the Agency has some design and operating data for six treatment points from one facility that document the operation of the facility.

(iii) Discussion. The Agency's best engineering judgment is that the EP regulatory level of 5.0 mg/1 for lead can be met for the full range of California List wastewaters containing lead. In support of this position, the Agency points to theoretical solubility limit of lead precipitates, chemical precipitation theory, and our knowledge of the technologies available to minimize the effects of constituents in the waste that can interfere with treatment performance. In addition, the available data does not lead us to another conclusion.

In the case of the one data point that does not show achievement of the EP regulatory level, there are no additional waste characterization data to indicate why the EP regulatory level was not met. With regard to our analysis of the design and operation of the treatment system used, the Agency had no data to show that the treatment system was designed and operated properly.

The Agency recognizes the lack of data on the full range of waste characteristics and design and operating conditions that may affect treatment effectiveness. Therefore, we are soliciting data that would aid the Agency in analyzing treatment performance for lead in wastewaters. A description of the specific waste characterization data and design and operating data that the Agency needs can be found in Section V(E), Request for Comments.

c. *Data Analysis—Waste Other than Wastewater.* (i) Waste Characterization Analysis. As stated above in the data summary, 90 of the 94 data points show that the EP regulatory level for lead can be achieved. Of the 90 points that achieve the EP regulatory level, all reflect treatment by stabilization. The Agency has limited information on the range of waste characteristics pertinent to an evaluation of the performance of this technology. Most of the available waste characterization data that are important for an engineering analysis involve other metal concentrations.

For the wastes that were stabilized so that the leachate met the EP regulatory level, the highest concentration of lead was 57,000 mg/kg.

(ii) Design and Operating Parameter Analysis. For the 90 data points that achieve the EP regulatory level, the Agency has some design and operating data for four treatment points at four facilities that generally describe the stabilizing agent and ratio of waste to stabilizing agent.

(iii) Discussion. The Agency's best engineering judgment is that the EP regulatory level of 5.0 mg/1 for lead can be met in leachate for the full range of California List waste other than wastewater. In support of this position, the Agency points to the facility's ability to change the ratio of stabilizing agents to waste quantities as needed to decrease mobility of the constituent; this assumes that an effective stabilizing agent and/or additives are available. Additionally, the curing conditions (e.g., length of cure and ambient conditions) can be controlled to ensure that the waste particles have had sufficient time to form a stable treated waste. Additionally, the Agency's evaluation of the available data would not lead us to conclude otherwise.

For the four values that do not achieve the EP regulatory level of 5.0 mg/1, only two of them have waste concentrations higher than wastes which we show to achieve the EP regulatory level (96,200 mg/kg, EP of 938 mg/1; 63,150 mg/kg, EP of 22.8 mg/1). For the first point, the very high leachate value (938 mg/1) indicates that the stabilization process was not well-designed. In the case of the second point, the untreated concentration (63,150 mg/kg) is approximately the same as the concentration in a different waste (57,000 mg/kg) that does achieve the EP regulatory level. The Agency has no other waste characterization data on any of the four values that do not achieve the EP regulatory level that would have us conclude the EP regulatory level cannot be achieved. Additionally, we do not have any design and operating data that show the stabilization processes for the four values that do not achieve the EP regulatory level are well-designed and operated.

The Agency recognizes that we lack data on the full range of waste characteristics and design and operating conditions that may affect treatment effectiveness. Therefore, we are soliciting information to aid the Agency in analyzing treatment performance for lead in wastes other than wastewater. The specific waste characteristics data and design and operating data that the Agency needs are described in Section V(E), Request for Comments.

TABLE 8—LEAD DATA FOR WASTEWATER

Source[+]	Industry	Process generating waste	Treatment process	Waste codes[a]	Waste characterization data		Lead concentration data	
					Parameter	concentration (mg/l)	Untreated	Treated
							Total (mg/l)	Total (mg/l)
EWE	Electronic & plating.	NAV	Chemical precipitation.	NAV	Oil & grease	150 mg/kg	1900	92

TABLE 8—LEAD DATA FOR WASTEWATER—Continued

Source*	Industry	Process generating waste	Treatment process	Waste codes*	Waste characterization data		Lead concentration data	
					Parameter	concentration (mg/l)	Untreated	Treated
							Total (mg/l)	Total (mg/l)
Battery manufacturing.	Lead battery manufacturing.	NAV	Ferrite co-precipitation.	NAV	Cadmium Mercury Nickel	240 7.4 1000	475	0.01
Envirite [2]	TSDF	NAV	Chemical precipitation Filtration.	F006 D003 K062	Zinc Hex. Chrom Chromium Copper Nickel Oil & Grease	151 0.13 831 217 669 573	212	>0.01
Envirite [6]	TSDF	NAV	Chemical precipitation Filtration.	F006 K062 D003	Chromium Cadmium. Copper Zinc Nickel Oil & grease	23 617 137 135 382 322	136	<0.01
Envirite [3]	TSDF	NAV	Chemical precipitation Filtration.	F006 K062 D003 D002	Cadmium Hex. Chrom Chromium Copper Zinc Nickel Oil & grease	10 769 2314 72 171 426 113	108	<0.01
Bhattacharyya, et al. [2].	Nonferrous metal production.	NAV	Sulfide and lime precipitation.	NAV	Arsenic Cadmium Mercury	125 14 0.8	75	0.2
Envirite [4]	TSDF	NAV	Chemical precipitation Filtration.	F006 K062 D003 D002	Cadmium Hex. Chrom Chromium Copper Nickel Zinc Oil & grease	13 893 2581 138 471 116 28	64	<0.01
Envirite [5]	TSDF	NAV	Chemical precipitation Filtration.	F006 K062 D003 D002	Cadmium Hex. Chrom. Chromium Copper Nickel Oil & grease	10 807 2279 133 470 54	54	<0.10
Chem Pro Inc	NAV	NAV	Chemical precipitation Filtration.	NAV	NAV	NAV	32	<0.5
Battery manufacturing.	Lead battery manufacturing.	NAV	Hydroxide precipitation, Sedimentation.	NAV	NAV	NAV	30	0.11
Envirite [1]	TSDF	NAV	Chemical precipitation Filtration.	F006 K062 D003	Hex. Chrom. Chromium Copper Nickel Zinc Oil & grease	917 2236 91 1414 71 14	18	0.01
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation Sedimentation.	NAV	NAV	NAV	9.7	0.14
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation Sedimentation.	NAV	NAV	NAV	8.4	0.10
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation Sedimentation.	NAV	NAV	NAV	6.9	<0.1
Metal Finsihing Dev. Doc.	Metal finishing	NAV	Chemical precipitation Sedimentation.	NAV	NAV	NAV	6.9	0.17

TABLE 8—LEAD DATA FOR WASTEWATER—Continued

Source[+]	Industry	Process generating waste	Treatment process	Waste codes[a]	Waste characterization data		Lead concentration data	
					Parameter	concentration (mg/1)	Untreated	Treated
							Total (mg/1)	Total (mg/1)
Bhattacharyya, et. al. [1].	Nonferrous metal production.	NAV	Sulfide and lime precipitation.	NAV	Arsenic Cadmium Mercury	160 3.5 0.9	6.0	<0.2

[+] See Section V(C)(10) for Data Sources.
[a] Waste codes as reported in source.
NAV—Not available.

TABLE 9.—LEAD DATA FOR WASTE OTHER THAN WASTEWATER

Source	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Lead concentration data			
					Parameter	Concentration	Untreated		Treated	
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	96200	NAV	NAV	938
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	63150	NAV	NAV	22.8
591	NAV	NAV	Stabilization.	F006	Nickel	4180 mg/kg	57000	125	NAV	0.3
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	50500	NAV	NAV	0.2
617	EAF steel	EAF steel production.	Stabilization.	K061	Cadmium Nickel Arsenic TOC Oil and grease.	200 ppm 40 ppm 0.03–0.04% 0.04–0.06%	38000	NAV	NAV	0.02–0.03
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	35600	NAV	NAV	0.88
681	EAF steel	EAF steel production.	Stabilization.	K061	Arsenic Cadmium Selenium	50 (mg/gk) 200 mg/gk 70 mg/gk	15000	55	000–7000.	<0.01–0.08
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	12500	NAV	NAV	1.19
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	11800	NAV	NAV	14.3
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	10900	NAV	NAV	3.81
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	10900	NAV	NAV	25.8
192[b]	NAP	Synthetic waste.	Stabilization.	NAP	Barium Cadmium Chromium Mercury Nickel Silver Arsenic Selenium	6600 mg/gk 10300 mg/gk 10900 mg/gk 11300 mg/gk 11100 mg/gk 3900 mg/gk 12000 mg/gk 7600 mg/gk	8820	NAV	NAV	<0.03
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	7911	NAV	NAV	0.84
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	7000	NAV	NAV	0.39
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	6450	NAV	NAV	0.98
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	6260	NAV	NAV	0.28
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	6250	NAV	NAV	1.83
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	5581	NAV	NAV	0.36

TABLE 9.—LEAD DATA FOR WASTE OTHER THAN WASTEWATER—Continued

Source	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Lead concentration data			
					Parameter	Concentration	Untreated		Treated	
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	4689	NAV	NAV	0.3
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	4210	NAV	NAV	0.44
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	3800	NAV	NAV	3.77
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	3630	NAV	NAV	1.13
192[b]	NAP	Synthetic waste.	Stabilization.	NAP	Barium Cadmium Chromium Mercury Nickel Silver Arsenic Selenium	3680 mg/kg 5500 mg/kg 6300 mg/kg 600 mg/kg 5810 mg/kg 1760 mg/kg 6400 mg/kg 4600 mg/kg	3580	NAV	NAV	<0.03
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	3510	NAV	NAV	0.38
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	3231	NAV	NAV	0.21
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	2729	NAV	NAV	0.45
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	2680	NAV	NAV	0.42
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	2471	NAV	NAV	1.16
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	2471	NAV	NAV	1.76
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	2000	NAV	NAV	0.12
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1889	NAV	NAV	0.27
HAZCO[b]	NAP	Synthetic waste.	Stabilization.	NAP	Arsenic Cadmium Mercury Selenium Waste lube oil. Alcohol Water	2267 mg/kg 1090 mg/kg 1752 mg/kg 599 mg/kg 858000 mg/kg 55000 mg/kg 87000 mg/kg	1872	NAV	1813	<0.5
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1820	NAV	NAV	0.08
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1808	NAV	NAV	0.24
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1725	NAV	NAV	1.05
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1370	NAV	NAV	0.39
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1360	NAV	NAV	1.13
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1300	NAV	NAV	1.7
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1185	NAV	NAV	0.29
192[b]	NAP	Synthetic waste.	Stabilization.	NAP	Barium Cadmium Chromium Mercury Nickel Silver Arsenic Selenium	18 mg/kg 2400 mg/kg 1710 mg/kg 1060 mg/kg 1360 mg/kg 290 mg/kg 1100 mg/kg 750 mg/kg	1170	NAV	NAV	0.08
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1049	NAV	NAV	0.55
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	800	NAV	NAV	1.41

TABLE 9.—LEAD DATA FOR WASTE OTHER THAN WASTEWATER—Continued

Source	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Lead concentration data			
					Parameter	Concentration	Untreated		Treated	
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	663	NAV	NAV	0.62
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	597	NAV	NAV	0.7
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	596	NAV	NAV	0.6
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	577	NAV	NAV	1.82
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	484	NAV	NAV	0.42
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	448	NAV	NAV	0.41
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	362	NAV	NAV	0.365
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	360	NAV	NAV	0.41
638	TSDF	NAV	Stabilization.	NAV	Nickel Selenium TOC Oil & grease	291–314 ppm 0.125–51.8 ppm. 3.35–9.58 ppm 5.0%–18.4%	156–334	NAV	NAV	0.02
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	332	NAV	NAV	0.33
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	327	NAV	NAV	0.37
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	288	NAV	NAV	0.39
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	275	NAV	NAV	0.245
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	270	NAV	NAV	0.3
548	NAV	Electroplating.	Stabilization.	F006	Chromium (tot). Nickel	138000 mg/kg 5610 mg/kg	269	NAV	NAV	0.33
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	236	NAV	NAV	0.39
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	229	NAV	NAV	0.43
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	228	NAV	NAV	0.35
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	221	NAV	NAV	0.11
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	216	NAV	NAV	0.35
192	TSDF	NAV	Stabilization.	K062 D002 F006 F007 F009 F012	Cadmium Nickel pH	0.11–310 mg/l. 30–124.8 mg/l ≤1.7.0.	0.12–204	NAV *	165 *	≤0.06
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	203	NAV	NAV	0.35
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	198	NAV	NAV	0.34
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	190	NAV	NAV	0.01
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	186	NAV	NAV	0.29
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	182	NAV	NAV	0.02
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	181	NAV	NAV	0.48
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	180	NAV	NAV	0.205
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	180	NAV	NAV	0 26

TABLE 9.—LEAD DATA FOR WASTE OTHER THAN WASTEWATER—Continued

Source	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Lead concentration data			
					Parameter	Concentration	Untreated		Treated	
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	169	NAV	NAV	0.4
192	TSDF	NAV	Stabilization.	K062 D002 F009 F006 F012 F007 F017 F018	Chromium Nickel	1527 mg/kg 2020 mg/kg	165	NAV	NAV	0.1
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	164	NAV	NAV	0.2
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	161	NAV	NAV	0.16
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	160	NAV	NAV	0.34
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	159	NAV	NAV	0.06
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	157	NAV	NAV	0.3
548	NAV	Electroplating.	Stabilization.	F006	Chromium Nickel	16700 mg/kg 5050 mg/kg	151	NAV	NAV	0.34
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	144	NAV	NAV	0.28
548	NAV	Electroplating.	Stabilization.	F006	Chromium Nickel	15600 mg/kg 5700 mg/kg	144	NAV	NAV	0.34
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	138.9	NAV	NAV	0.42
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	135	NAV	NAV	0.06
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	132	NAV	NAV	0.65
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	129	NAV	NAV	0.33
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	128	NAV	NAV	0.27
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	127	NAV	NAV	0.08
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	116	NAV	NAV	0.42
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	115	NAV	NAV	0.27
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	114	NAV	NAV	0.47
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	108	NAV	NAV	0.53
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	108	NAV	NAV	0.21
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	108	NAV	NAV	0.53
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	104	NAV	NAV	0.23

* See Section V(C)(10) for Data Sources.
[a] Waste code reported in delisting petition.
[b] Data represents bench-scale test.
NAV—Not available.
NAP—Not applicable.
CBI—Confidential Business Information.

5. Mercury

a. *Data Summary.* The Agency has five data points on the treatment of mercury in wastewater from four facilities. Of the five data points, all have mercury concentrations in the treated wastewater lower than the EP regulatory level of 0.2 mg/1. Table 10 provides a summary of all available data for treatment of mercury. All five data points reflect treatment by chemical precipitation.

The Agency has 102 data points on the treatment of mercury in waste *other*

than wastewater from three facilities. Of the 102 data points, 96 have mercury concentrations in the leachate from the treated waste lower than the EP regulatory level of 0.2 mg/1. Table 11 provides a summary of all available data for mercury in waste other than wastewater. Of the 102 data points, all reflect treatment by stabilization.

b. *Data Analysis—Wastewater.* (i) Waste Characterization Analysis. All data points reflect treatment by chemical precipitation. The Agency has limited data on the range of waste characteristics pertinent to an evaluation of performance of this technology. Most of the available waste characterization data that are important for an engineering analysis involve other metal concentrations.

The treatment data have a maximum influent concentration for mercury of 110 mg/1. Our review of the literature indicates that untreated wastes may have concentrations as high as 132 mg/1, comparable to the maximum influent concentration contained in the data set.

(ii) Design and Operating Parameter Analysis. The five data points were generated by four different facilities that employed chemical precipitation technologies. The Agency has no available design and operating data for any of the treatment facilities.

(iii) Discussion. The Agency's best engineering judgment is that the EP regulatory level of 0.2 mg/1 for mercury can be met for the full range of California List wastewaters containing mercury. In support of this position, the Agency points to theoretical solubility limits, chemical precipitation theory, and our knowledge of the technologies available to minimize the effects of constituents in the waste that can interfere with treatment performance. Additionally, the available data would not lead us to conclude otherwise.

All five data points show that the EP regulatory level can be achieved. Based on available information, these data cover the range of mercury concentrations that the Agency would expect to be present in untreated California List wastewaters. The Agency recognizes the lack of data on the full range of waste characteristics and design and operating conditions that may affect treatment effectiveness. Therefore, we are soliciting data that would aid the Agency in analyzing treatment effectiveness for mercury in wastewaters. A description of the specific waste characterization data and design and operating data that the Agency needs can be found in Section V(E), Request for Comments.

c. *Data Analysis—Waste Other Than Wastewater.* (i) Waste characterization Analysis. As stated above in the Data Summary, 96 of the 102 data points show that the EP regulatory level for mercury can be achieved. Of the 96 points that achieved the EP regulatory level, all reflect treatment by stabilization. The Agency has limited information on the range of waste characteristics pertinent to an evaluation of the performance of this technology. Most of the available waste characteristics data that are important for an engineering analysis involve other metal concentrations. For the 96 data points which meet EP regulatory levels, the treatment data reflect a maximum untreated level for mercury of 3,720 mg/kg.

(ii) Design and Operating Parameter Analysis. For the 96 data points that achieve the EP regulatory level, the Agency has only limited design and operating data reported from two facilities.

(iii) Discussion. The Agency's best engineering judgment is that the EP regulatory level of 0.2 mg/1 for mercury can be met in leachate for the full range of California List wastes other than wastewaters. In support of this position, the Agency points to the facility's ability to change the ratio of stabilizing agents to waste quantities as needed to decrease mobility of the constituent; this assumes that an effective stabilizing agent and/or additives are available. Additionally, the curing conditions (e.g., length of cure and ambient conditions) can be controlled to ensure that the waste particles have had sufficient time to form a stable treated waste. Additionally, the Agency's evaluation of the available data would not lead us to conclude otherwise.

For the six data points that do not achieve the EP regulatory level, only one has a waste concentration significantly higher than waste concentrations shown to achieve the EP regulatory level. While limited waste characterization data are available, this waste is not shown to contain constituents much different from other wastes which achieve the EP regulatory level. With regard to design and operation of the system, there are no data available to show that the stabilization process for this point was well-designed and operated.

The Agency recognizes that we lack data on the full range of waste characteristics and design and operation conditions that may affect treatment effectiveness. Therefore, we are soliciting information to aid the Agency in analyzing treatment performance for mercury in wastes other than wastewater. The specific waste characteristic data and design and operating data that the Agency needs are described in Section V(E), Request for Comments.

TABLE 10.—MERCURY DATA FOR WASTEWATER

Source [*]	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Mercury concentration data	
					Parameter	Concentration	Untreated	Treated
							Total (mg/l)	Total (mg/l)
Battery Manuf. Dev. Doc.	Zinc battery manufacturing/ Hg0 production.	NAV	Sulfide precipitation.	NAV	NAV	NAV	110	0.06
Battery Manuf. Dev. Doc.	Zinc battery manufacturing.	NAV	Lime precipitation, Settling, Filtration.	NAV	Cadmium Nickel	2.04 mg/l 1,000 mg/l	100	<0.001
Battery Manuf. Dev. Doc.	Lead battery manufacturing.	NAV	Ferrite co-precipitation.	NAV	Cadmium Nickel Lead	240 mg/l 1,000 mg/l 475 mg/l	7.4	0.001
Bhattach aryya, et al. [1].	Nonferrous metal production.	NAV	Sulfide and lime precipitation.	NAV	Arsenic Cadmium Lead	160 3.5 6.0	0.9	0.01

TABLE 10.—MERCURY DATA FOR WASTEWATER—Continued

Source [*]	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Mercury concentration data	
					Parameter	Concentration	Untreated	Treated
							Total (mg/l)	Total (mg/l)
Bhattach aryya, et al. [2].	Nonferrous metal production.	NAV	Sulfide and lime precipitation.	NAV	Arsenic Cadmium Lead	125 14 75	0.8	0.012

[*] See Section V(C)(10) for Data Sources.
NAV-Not Available.

TABLE 11.—MERCURY DATA FOR WASTE OTHER THAN WASTEWATER

Source [*]	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Mercury Concentration Data			
					Parameter	Concentration	Untreated	Treated		
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
192 [b]	NAP	Synthetic waste.	Stabilization.	NAP	Barium Cadmium Chromium Lead Nickel Silver Arsenic Selenium	6600 mg/kg 10300 mg/kg 10900 mg/kg 8820 mg/kg 11100 mg/kg 3900 mg/kg 12000 mg/kg 7600 mg/kg	11300	NAV	NAV	26
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	3720	NAV	NAV	0.09
HAZCO [b]	NAP	Synthetic waste.	Stabilization.	NAP	Arsenic Cadmium Lead Selenium Waste lube oil. Alcohol Water	2267 mg/kg 1090 mg/kg 1872 mg/kg 599 mg/kg 858000 mg/kg 55000 mg/kg 87000 mg/kg	1752	NAV	1697	0.07
192 [b]	NAP	Synthetic waste.	Stabilization.	NAP	Barium Cadmium Chromium Lead Nickel Silver Arsenic Selenium	18 mg/kg 2400 mg/kg 1710 mg/kg 1170 mg/kg 1360 mg/kg 290 mg/kg 1100 mg/kg 750 mg/kg	1060	NAV	NAV	9.4
192 [b]	NAP	Synthetic waste.	Stabilization.	NAP	Barium Cadmium Chromium Lead Nickel Silver Arsenic Selenium	3680 mg/kg 5500 mg/kg 6300 mg/kg 3580 mg/kg 5810 mg/kg 1760 mg/kg 6400 mg/kg 4600 mg/kg	600	NAV	NAV	8.6
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	554.2	NAV	NAV	0.008
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	253	NAV	NAV	0.11
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	243	NAV	NAV	0.009
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	105	NAV	NAV	0.01
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	90	NAV	NAV	0.002
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	84.3	NAV	NAV	0.001
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	64.9	NAV	NAV	0.001

TABLE 11.—MERCURY DATA FOR WASTE OTHER THAN WASTEWATER—Continued

Source [+]	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Mercury Concentration Data			
					Parameter	Concentration	Untreated	Treated		
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	50	NAV	NAV	0.01
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	49	NAV	NAV	0.008
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	44	NAV	NAV	0.17
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	41	NAV	NAV	12
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	40	NAV	NAV	0.02
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	40	NAV	NAV	0.18
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	38	NAV	NAV	0.02
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	35	NAV	NAV	0.05
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	35	NAV	NAV	0.03
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	34	NAV	NAV	0.05
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	33	NAV	NAV	0.12
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	32	NAV	NAV	0.1
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	31	NAV	NAV	0.011
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	29	NAV	NAV	0.04
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	29	NAV	NAV	0.11
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	28	NAV	NAV	0.11
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	25.48	NAV	NAV	0.0058
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	25	NAV	NAV	0.02
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	24	NAV	NAV	0.03
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	23	NAV	NAV	0.03
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	22	NAV	NAV	0.09
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	22	NAV	NAV	0.14
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	21	NAV	NAV	0.11
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	21	NAV	NAV	0.12
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	20	NAV	NAV	0.02
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	20	NAV	NAV	0.19
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	19	NAV	NAV	0.08
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	19	NAV	NAV	0.03
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	19	NAV	NAV	0.08
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	18	NAV	NAV	0.09
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	18	NAV	NAV	0.13
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	18	NAV	NAV	0.02
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	17	NAV	NAV	0.14

TABLE 11.—MERCURY DATA FOR WASTE OTHER THAN WASTEWATER—Continued

Source *	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Mercury Concentration Data			
					Parameter	Concentration	Untreated	Treated		
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	17	NAV	NAV	0.09
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	16	NAV	NAV	0.21
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	16	NAV	NAV	0.08
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	15.22	NAV	NAV	0.0087
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	14	NAV	NAV	0.12
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	14	NAV	NAV	0.02
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	13.6	NAV	NAV	0.0165
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	12.83	NAV	NAV	0.001
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	12	NAV	NAV	0.09
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	12	NAV	NAV	0.08
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	12	NAV	NAV	0.05
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	12	NAV	NAV	0.11
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	11	NAV	NAV	0.11
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	11	NAV	NAV	0.07
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	11	NAV	NAV	0.03
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	10.4	NAV	NAV	0.0174
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	10.3	NAV	NAV	0.006
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	10	NAV	NAV	0.08
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	10	NAV	NAV	0.04
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	10	NAV	NAV	0.9
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	10	NAV	NAV	0.14
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	9.4	NAV	NAV	0.002
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	9.38	NAV	NAV	0.0104
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	8.8	NAV	NAV	0.0085
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	8.6	NAV	NAV	0.0096
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	8.5	NAV	NAV	0.0095
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	8.03	NAV	NAV	0.0109
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	8	NAV	NAV	0.03
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	8	NAV	NAV	0.09
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	8	NAV	NAV	0.04
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	8.1	NAV	NAV	0.045
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	7.91	NAV	NAV	0.0013
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	7.32	NAV	NAV	0.0019

TABLE 11.—MERCURY DATA FOR WASTE OTHER THAN WASTEWATER—Continued

Source [+]	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Mercury Concentration Data			
					Parameter	Concentration	Untreated	Treated		
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	7.24	NAV	NAV	0.0231
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	7	NAV	NAV	0.06
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	6.98	NAV	NAV	0.0096
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	6.67	NAV	NAV	0.0073
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	6.62	NAV	NAV	0.0048
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	6.2	NAV	NAV	0.0043
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	6.1	NAV	NAV	0.002
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	6.1	NAV	NAV	0.0092
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	6	NAV	NAV	0.05
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	6	NAV	NAV	0.02
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	6	NAV	NAV	0.09
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	6	NAV	NAV	0.050
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	5.9	NAV	NAV	0.002
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	5.86	NAV	NAV	0.0024
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	5.8	NAV	NAV	0.01
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	5.74	NAV	NAV	0.0051
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	5.1	NAV	NAV	0.0085
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	5	NAV	NAV	0.02
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	5	NAV	NAV	0.06
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	5	NAV	NAV	0.021
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	5	NAV	NAV	0.05
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	4.91	NAV	NAV	0.0011
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	4.23	NAV	NAV	0.0163
CBI	CBI	CBI	Stabiliza-tion.	NAV	CBI	CBI	4.1	NAV	NAV	0.007

[+] See Section V(C)(10) for Data Sources.
[b] Data represents bench-scale test.
NAV—Not available.
NAP—Not applicable.
CBI—Confidential Business Information.

6. Nickel

a. *Data Summary.* The Agency has 35 data points on the treatment of nickel in wastewater from 25 facilities. Of the 35 data points, 34 have nickel concentrations in the treated wastewater lower than the health-based value of 50 mg/1. The treatment technology applied to these wastewaters was chemical precipitation. Table 12 provides a summary of all available data on the treatment of nickel in wastewater.

The Agency has 40 data points on the treatment of nickel in waste *other than wastewater* from six facilities. Of the 40 data points, 38 have nickel lower than the health-based prohibition levels of 50 mg/1. The treatment technology applied to these wastes was stabilization. Table 13 provides a summary of all available data for nickel in waste other than wastewater.

b. *Data Analysis—Wastewater.*

(i) Waste Characteristic Analysis. Of the 34 data points that achieve the health-based prohibition level, all reflect treatment by chemical precipitation. The

Agency has limited data on the range of waste characteristics pertinent to an evaluation of the performance of this technology. Most of the available waste characterization data that are important for engineering analysis involve other metal concentrations.

The treatment data have a maximum influent concentration for nickel of 65,000 mg/1. As stated in Section V(B)(1), high influent concentrations, per se, do not adversely affect treatment; however, high metal concentration often indicate that the metals are complexed in solution and complexed metal compounds, if not dissociated, could have an adverse effect on treatment.

(ii) Design and Operating Parameter Analysis. Of the 34 data points that meet the health-based prohibition level, the Agency has some design and operating data for two data points from two facilities that document the operation of the treatment system. Limited design and operating data are available for the data point that does not meet the health-based prohibition level.

(iii) Discussion. The Agency's best engineering judgment is that the health-based prohibition level of 50 mg/1 for nickel can be met for the full range of California List wastes containing nickel. In support of this position, the Agency points to the theoretical solubility limit of nickel precipitates, chemical precipitation theory, and our knowledge of the technologies available to minimize the effects of constituents in the waste that can interfere with treatment performance. Additionally, the available data would not lead us to conclude otherwise.

In the case of the data point that does not show achievement of the health-based prohibition level, the Agency looked at the waste characteristics and treatment design and operation to determine why the health-based prohibition level was not attained. The only waste characteristic data reported for this point was an oil and grease concentration of 150 mg/1. This level may have been sufficient to interfere with the precipitation process; we would expect that oil and grease can be effectively removed by preliminary treatment such as oil-water separation and/or emulsion breaking.

With regard to our analysis of the design and operation of the treatment system used, the Agency had limited data to determine whether poor design or operation contributed to the failure of the system to achieve the health-based prohibition level.

The Agency recognizes that we lack data on the full range of waste characterization and design and operation conditions that may affect treatment effectiveness. Therefore, we are soliciting information to aid the Agency in analyzing treatment performance for nickel in wastewater. The specific waste characteristics data and design and operating data that the Agency needs are described in Section V(E), Request for Comments.

c. *Data Analysis—Waste Other Than Wastewater.* (i) Waste Characteristics Analysis. As stated above in the Data Summary, 38 of the 40 data points achieve the health-based prohibition level for nickel. All 40 data points reflect treatment by stabilization.

For the 38 data points, the Agency has limited information on the range of waste characteristics pertinent to an evaluation of the performance of this technology. Most of the available waste characterization data that are important for an engineering analysis involve other metal concentrations.

For wastes that were treated to below the health-based prohibition level, the maximum total nickel concentration was 65,000 mg/kg.

(ii) Design and Operating Parameter Analysis. For the 38 data points that achieve the health-based value, the Agency has limited design and operating data for 10 data points from two facilities. For the two data points that do not meet the health-based prohibition level, we have insufficient information to determine whether poor design or operation affected performance.

(iii) Discussion. The Agency's best engineering judgment is that the health-based prohibition level of 50 mg/1 for nickel can be met in leachate for the full range of California List wastes other than wastewater. In support of this position, the Agency points to the facility's ability to change the ratio of stabilizing agents to waste quantities as needed to decrease the mobility of the constituent; this assumes that an effective stabilizing agent and/or additives are available. Additionally, the curing conditions (e.g., length of cure and ambient conditions) can be controlled to ensure that the waste particles have had sufficient time to form a stable treated waste. Additionally, the Agency's evaluation of the available data also would not lead us to conclude that the health-based prohibition level of 50 mg/1 cannot be achieved.

In the cases where the treated waste leachate did not achieve the health-based prohibition level, the Agency looked at the waste characteristics and treatment design and operation to determine why the health-based prohibition level was not attained. Relative to waste characteristics, one of the two data points had untreated waste with high concentrations of various other metals that could have had an adverse affect on the performance of the stabilization technology. The EPA has no waste characteristic data on other parameters in these wastes, such as oil and grease content, organic compounds, and sulfates, all of which can adversely affect the performance of stabilization technology if not adequately removed or immobilized prior to or during stabilization. Relative to analysis of the design and operation of the treatment system used, the Agency has insufficient data to determine whether poor design or operation contributed to the failure of the systems to achieve the health-based prohibition level.

The Agency recognizes that we lack data on the full range of waste characteristics and design and operation conditions that may affect treatment effectiveness. Therefore, we are soliciting information to aid the Agency in analyzing treatment performance for nickel in wastes other than wastewater. The specific waste characteristics data and design and operating data that the Agency needs are described in Section V(E), Request for Comments.

TABLE 12.—NICKEL DATA FOR WASTEWATER

Source*	Industry	Process generating waste	Treatment process	Waste codes[a]	Waste Characterization Data		Nickel concentration data	
					Parameter	Concentration (mg/l)	Untreated	Treated
							Total (mg/l)	Total (mg/l)
Envirite [2]	TSDF	NAV	Chemical precipitation, Filtration.	F006 K062 D003 D002	Hex. Chrom. Chromium Copper Zinc Oil & Grease	775 1990 133 3.9 0.25	16330	0.33
Envirite [1]	TSDF	NAV	Chemical precipitation, Filtration.	D002 K062 D003	Hex. Chrom. Chromium Copper Zinc Oil & Grease	0.6 556 88 84 16	6610	0.33
EWE	Electronic & plating	NAV	Chemical precipitation.	NAV	Oil & grease	150	3700	130
Envirite [3]	TSDF	NAV	Chemical precipitation, Filtration.	F006 K062 D003	Hex. Chrom. Chromium Copper Lead Zinc Oil & grease	917 2236 91 18 71 14	1414	0.31
Battery Manufacturing Dev. Doc.	Zinc battery manufacturing.	NAV	Lime precipitation. Settling. Filtration.	NAV	Cadmium Mercury	2.04 100	1100	0.5
Battery Manufacturing Dev. Doc.	Lead battery manufacturing.	NAV	Ferrite coprecipitation.	NAV	Cadmium Lead Mercury	240 475 7.4	1000	0.2
Envirite [9]	TSDF	NAV	Chemical precipitation, Filtration.	D002 F006 D003	Chromium Copper Oil & grease	939 225 204	940	0.33
Envirite [10]	TSDF	NAV	Chemical precipitation, Filtration.	F006 K062 D003	Chromium Copper Oil & grease	395 191 0.035	712	0.33
Envirite [4]	TSDF	NAV	Chemical precipitation, Filtration.	F006 D003 K062	Hex. chrom Chromium Copper Lead Zinc	0.13 831 217 212 151	669	0.36
Envirite [5]	TSDF	NAV	Chemical precipitation, Filtration.	F011 K062 D003 D002	Hex. Chrom. Chromium Copper Zinc Oil & grease	734 2548 149 4 102	588	0.33
Frontier Chemical Company.	Battery manufacturing.	NAV	Chromium reduction, Lime precipitation, Filtration, Carbon adsorption.	D002 D007	TOC Oil & grease TSS TDS Lead Cadmium	5600–19000 2600–18000 2400–60000 10000–170000 1.1–3.8 3.9–180	4.3–500	1.8–2.2
Envirite [6]	TSDF	NAV	Chemical precipitation, Filtration.	F006 K062 D003 D002	Cadmium Hex. Chrom. Chromium Copper Lead Zinc Oil & grease	13 893 2581 138 64 116 28	471	0.33
Envirite [7]	TSDF	NAV	Chemical precipitation, Filtration.	F006 K062 D003 D002	Cadmium Hex. Chrom. Chromium Copper Lead Oil & grease	10 807 2279 133 116 54	470	0.33

TABLE 12.—NICKEL DATA FOR WASTEWATER—Continued

Source*	Industry	Process generating waste	Treatment process	Waste codes[a]	Waste Characterization Data		Nickel concentration data	
					Parameter	Concentration (mg/l)	Untreated	Treated
							Total (mg/l)	Total (mg/l)
Envirite [8]	TSDF	NAV	Chemical precipitation, Filtration.	F006 K062 D003 D002	Cadmium Hex. Chrom. Chromium Copper Zinc Lead Oil & grease	10 769 2314 72 171 108 113	426	0.4
Envirite [11]	TSDF	NAV	Chemical precipitation, Filtration.	F006 K062 D003	Cadmium Chromium Copper Lead Zinc Oil & grease	23 617 137 136 135 322	382	0.39
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	167	0.3
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	153	0.91
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	142	1.56
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	128	0.57
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	111	0.46
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	108	1.78
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	108	0.78
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	97	0.81
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	94	1.52
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	94	0.60
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	85.3	0.14
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	80.6	1.84

TABLE 12.—NICKEL DATA FOR WASTEWATER—Continued

Source*	Industry	Process generating waste	Treatment process	Waste codes[a]	Waste Characterization Data		Nickel concentration data	
					Parameter	Concentration (mg/l)	Untreated	Treated
							Total (mg/l)	Total (mg/l)
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	78.7	0.43
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	78.7	0.11
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	76.9	0.38
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	73.0	6.39
Battery Manufacturing Dev. Doc.	Zinc battery manufacturing.	NAV	Lime precipitation, Settling, Filtration.	NAV	NAV	NAV	59.0	1.76
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	53.8	0.45
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	52.5	0.48
Metal Finishing Dev. Doc.	Metal finishing	NAV	Chemical precipitation, Sedimentation.	NAV	NAV	NAV	50.0	7.30

* See Section V(C)(10) for Data Sources.
[a] Waste codes as reported in source.
NAV—Not available.

TABLE 13. NICKEL DATA FOR WASTE OTHER THAN WASTEWATER

Source [+]	Industry	Process generating waste	Treatment process	Waste codes [a]	Waste characterization data		Nickel concentration data			
					Parameter	Concentration	Untreated		Treated	
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
161	NAV	Electroplating.	Stabilization.	F006	Chromium	72000 mg/kg	65000	87	NAV	4.8
591	NAV	NAV	Stabilization.	F006	Lead	42200 mg/kg	13100	60	NAV	5.3
192 [b]	NAP	Synthetic waste.	Stabilization.	NAP	Barium	6600 mg/kg	11100	NAV	NAV	59.7
					Cadmium	10300 mg/kg				
					Chromium	10900 mg/kg				
					Lead	8820 mg/kg				
					Mercury	11300 mg/kg				
					Silver	3900 mg/kg				
					Arsenic	12000 mg/kg				
					Selenium	7600 mg/kg				
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	8432	NAV	NAV	1.19
548	NAV	Electroplating.	Stabilization.	F006	Chromium	16900 mg/kg	6120	NAV	NAV	0.454
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	6013	NAV	NAV	5.85

TABLE 13. NICKEL DATA FOR WASTE OTHER THAN WASTEWATER—Continued

Source [a]	Industry	Process generating waste	Treatment process	Waste codes [a]	Waste characterization data		Nickel concentration data			
					Parameter	Concentration	Untreated		Treated	
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
548	NAV	Electroplating.	Stabilization.	F006	Chromium	15100 mg/kg	6010	NAV	NAV	0.377
192 [b]	NAP	Synthetic waste.	Stabilization.	NAP	Barium Cadmium Chromium Lead Mercury Silver Arsenic Selenium	3680 mg/kg 5500 mg/kg 6300 mg/kg 3580 mg/kg 600 mg/kg 1760 mg/kg 6400 mg/kg 4600 mg/kg	5810	NAV	NAV	9.0
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	5733	NAV	NAV	6.60
548	NAV	Electroplating.	Stabilization.	F006	Chromium Lead	15600 mg/kg 144 mg/kg	5700	NAV	NAV	0.364
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	5700	NAV	NAV	5.85
548	NAV	Electroplating.	Stabilization.	F006	Chromium Lead	13800 mg/kg 269 mg/kg	5610	NAV	NAV	0.352
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	5388	NAV	NAV	2.26
548	NAV	Electroplating.	Stabilization.	F006	Chromium Lead	16700 mg/kg 151 mg/kg	5050	NAV	NAV	0.313
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	4818	NAV	NAV	3.64
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	4810	NAV	NAV	0.45
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	4280	NAV	NAV	0.52
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	3740	NAV	NAV	0.86
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	3720	NAV	NAV	0.45
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	3530	NAV	NAV	0.46
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	3220	NAV	NAV	0.94
192	TSDF	NAV	Stabilization.	K062 D002 F009 F006 F012 F007 F017 F018	Chromium Iron Zinc	3300 mg/kg 30600 mg/kg 16000 mg/kg	3200	NAV	NAV	15
548	NAV	Electroplating.	Stabilization.	F006	Chromium	9720 mg/kg	3150	NAV	NAV	0.361
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	3088	NAV	NAV	0.09
548	NAV	Electroplating.	Stabilization.	F006	Chromium	9070 mg/kg	2920	NAV	NAV	0.288
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	2780	NAV	NAV	2.67
548	NAV	Electroplating.	Stabilization.	F006	Chromium	9000 mg/kg	2780	NAV	NAV	0.341
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	2680	NAV	NAV	0.62
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	2670	NAV	NAV	0.70
548	NAV	Electroplating.	Stabilization.	F006	Chromium	8580 mg/kg	2590	NAV	NAV	0.366
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	2587	NAV	NAV	2.67
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	2430	NAV	NAV	0.92
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	2160	NAV	NAV	0.42

TABLE 13. NICKEL DATA FOR WASTE OTHER THAN WASTEWATER—Continued

Source [+]	Industry	Process generating waste	Treatment process	Waste codes [a]	Waste characterization data		Nickel concentration data			
					Parameter	Concentration	Untreated		Treated	
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	2100	NAV	NAV	0.75
192	TSDF	NAV	Stabilization.	K062 D002 F009 F006 F012 F007 F017 F018	Chromium Iron	1527 mg/kg 165 mg/kg	2020	NAV	NAV	60
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1930	NAV	NAV	0.90
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1700	NAV	NAV	0.71
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1650	NAV	NAV	0.58
192 [b]	NAP	Synthetic waste.	Stabilization.	NAP	Barium Cadmium Chromium Lead Mercury Silver Arsenic Selenium	18 mg/kg 2400 mg/kg 1710 mg/kg 1170 mg/kg 1060 mg/kg 290 mg/kg 1100 mg/kg 750 mg/kg	1360	NAV	NAV	1.04
CBI	CBI	CBI	Stabilization.	NAV	CBI	CBI	1180	NAV	NAV	0.52

[+] See Section V(C)(10) for Data Sources.
[a] Waste codes as reported in source.
[b] Data represent bench-scale test.
NAV—Not available.
NAP—Not applicable.
CBI—Confidential Business Information.

7. Selenium

a. *Data Summary.* The Agency has three data points on treatment of selenium in wastewaters from three facilities. All three are lower than the EP regulatory level of 1.0 mg/1. Table 14 provides a summary of all available data for the treatment of selenium in wastewater.

The Agency has 19 data points on the treatment of selenium in waste *other than wastewater* from six facilities. Of the 19 data points, 16 are lower than the EP regulatory level of 1.0 mg/1. Table 15 provides a summary of all available data for the treatment of selenium in waste other than wastewater.

b. *Data Analysis—Wastewater.* (i) Waste Characteristic Analysis. As stated above, all three of the data points show that the EP regulatory level for selenium in wastewaters can be achieved. All three data points reflect treatment by either lime and/or sodium hydroxide precipitation.

The Agency has limited data on the range of waste characteristics pertinent to an evaluation of the performance of chemical precipitation technology. Most of the available waste characterization data that are important for an engineering analysis involve other metal concentrations.

(ii) Design and Operating Parameters Analysis. Design and operating data were not available for the three data points presented in Table 14.

(iii) Discussion. The Agency's best engineering judgment is that the EP regulatory level of 1.0 mg/1 for selenium can be met for the full range of California List wastes containing selenium. In support of this position, the Agency points to the theoretical solubility limit of selenium precipitates, chemical precipitation theory, and our knowledge of the technologies available to minimize the effects of constituents in the waste that can interfere with treatment performance. Additionally, the available data would not lead us to conclude otherwise.

The Agency recognizes the lack of data on the full range of waste characteristics and design and operating conditions that may affect treatment effectiveness. Therefore, we are soliciting data that would aid the Agency in analyzing treatment performance for cadmium in wastewaters. A description of the specific waste characterization data and design and operating data that the Agency needs can be found in Section V(E), Request for Comments.

c. *Data Analysis—Waste Other Than Wastewater.* (i) Waste Characteristic Analysis. As stated above in the Data Summary, 16 of the 19 data points achieve the EP regulatory level. Each of these uses stabilization technology for treatment. Of the 16 data points that achieve the EP regulatory level, the Agency has limited data on the range of waste characteristics pertinent to an evaluation of this technology. Most of the available waste characterization data that are important for an engineering analysis involve other metals and oil and grease concentrations. For the wastes where EP regulatory levels were achieved, the maximum total selenium concentration was 1000 mg/kg, while other data indicate that these wastes may contain

total selenium concentrations as high as 7,600 mg/kg. The data with 7,600 selenium in the untreated waste represents bench scale treatment results.

(ii) Design and Operating Parameters Analysis. For the 16 data points that achieve the EP regulatory level, the Agency has limited design and operating data for four data points from four facilities. Three of these data points represent bench scale data.

(iii) Discussion. The Agency's best engineering judgment is that the EP regulatory level of 1.0 mg/1 for selenium can be met in leachate for the full range of California List waste other than wastewater. In support of this position, the Agency points to the ability of the facility to increase the ratio of stabilizing agents to waste as needed to meet high concentration wastes. Additionally, the curing conditions (e.g., length of cure and ambient conditions) can be controlled to ensure that the waste particles have had sufficient time to form a stable treated waste. The available data also would not lead us to conclude that the EP regulatory level for selenium cannot be achieved.

In the cases where the treated waste leachate did not achieve the EP regulatory level, the Agency looked at the waste characteristics and treatment design and operation to determine why the EP regulatory level was not attained. While we had limited waste characteristic data for these 3 points, we did not find any constituents in these wastes that were significantly different from other wastes achieving the EP regulatory level. We also showed wastes that had initial concentrations of the same order of magnitude achieving the EP regulatory level. Relative to analysis of the design and operation of the treatment systems used, the Agency had no data to determine whether poor design or operation contributed to the failure of the systems to achieve the EP regulatory level.

The Agency recognizes that we lack data on the full range of waste characteristics and design and operation conditions that may affect treatment effectiveness. Therefore, we are soliciting information to aid the Agency in analyzing treatment performance for cadmium wastes other than wastewater. The specific waste characteristics data and design and operating data that the Agency needs are described in Section V(E), Request for Comments.

TABLE 14.—SELENIUM DATA FOR WASTEWATER

Source [+]	Industry	Process generating waste	Treatment process	Waste codes	Waste characterization data		Selenium concentration data	
					Parameter	Concentration (mg/l)	Untreated total (mg/l)	Treated total (mg/l)
Battery Manufacturing Dev. Doc.	Lead battery manufacturing.	NAV	Lime and sodium hydroxide precipitation.	NAV	Nickel	5.84 mg/kg	30.2	<0.1
Battery Manufacturing Dev. Doc.	Lead battery manufacturing.	NAV	Lime and sodium hydroxide precipitation.	NAV	Nickel	6.86 mg/kg	28.6	<0.1
Battery Manufacturing Dev. Doc.	Lead battery manufacturing.	NAV	Lime and sodium hydroxide precipitation.	NAV	Nickel	5.63 mg/kg	27.4	<0.1

[+] See Section V(C)(10) for Data Source.
NAV—Not available.

TABLE 15.—SELENIUM DATA FOR WASTE OTHER THAN WASTEWATER

Source [+]	Industry	Process generating waste	Treatment process	Waste codes[a]	Waste characterization data		Selenium concentration data			
					Parameter	Concentration	Untreated		Treated	
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
192[b]	NAP	Synthetic waste.	Stabilization	NAV	Barium	6,600 mg/kg	7,600	NAV	NAV	2.9
					Cadmium	10,300 mg/kg				
					Chromium	10,900 mg/kg				
					Lead	8,820 mg/kg				
					Mercury	11,300 mg/kg				
					Nickel	11,100 mg/kg				
					Silver	3,900 mg/kg				
					Arsenic	12,000 mg/kg				
192[b]	NAP	do	do	NAV	Barium	3,680 mg/kg	4,600	NAV	NAV	2.0
					Cadmium	5,500 mg/kg				
					Chromium	6,300 mg/kg				
					Lead	3,580 mg/kg				
					Mercury	600 mg/kg				
					Nickel	5,810 mg/kg				
					Silver	1,760 mg/kg				
					Arsenic	6,400 mg/kg				
617	EAF steel production.	Electric arc furnace.	do	K061	Lead	38,000 ppm	1,000	NAV	NAV	0.02–0.04
					Cadmium	600 ppm				
					Chromium	1,100 ppm				
					Nickel	200 ppm				
					TOC	0.3–0.04%				
					Oil & grease	0.04–0.06%				

TABLE 15.—SELENIUM DATA FOR WASTE OTHER THAN WASTEWATER—Continued

Source [+]	Industry	Process generating waste	Treatment process	Waste codes[a]	Waste characterization data		Selenium concentration data			
					Parameter	Concentration	Untreated		Treated	
							Total (mg/kg)	EP-Tox (mg/l)	Total (mg/kg)	EP-Tox (mg/l)
192[b]	NAP	Synthetic waste.	do	NAV	Barium	18 mg/kg	750	NAV	NAV	1.5
					Cadmium	2,400 mg/kg				
					Chromium	1,710 mg/kg				
					Lead	1,170 mg/kg				
					Mercury	1,060 mg/kg				
					Nickel	1,360 mg/kg				
					Silver	290 mg/kg				
HAZCO[b]	NAV	do	do	NAV	Arsenic	1,100 mg/kg				
					Arsenic	2,267 mg/kg	599	NAV	580	<0.1
					Cadmium	1,090 mg/kg				
					Lead	1,872 mg/kg				
					Mercury	1,752 mg/kg				
					Waste lube oil	858,000 mg/kg				
					Alcohol	55,000 mg/kg				
					Water	8,700 mg/kg				
CBI	CBI	CBI	do	NAV	CBI	CBI	80	NAV	NAV	0.28
CBI	CBI	CBI	do	NAV	CBI	CBI	78	NAV	NAV	0.11
681	EAF steel production.	Electric arc furnace.	do	K061	Arsenic	50 mg/kg	70	NAV	10–40	<0.05
					Cadmium	200 mg/kg				
					Lead	15,000 mg/kg				
CBI	CBI	CBI	do	NAV	CBI	CBI	52	NAV	NAV	0.05
638	EAF steel production.	NAV	do	NAV	Chromium	1,120–1,140 ppm	0.13–51.8	NAV	NAV	0.006–0.021
					Nickel	291–314 ppm				
					Lead	156–334 ppm				
					Oil & grease	5.0%–18.4%				
CBI	CBI	CBI	do	NAV	CBI	CBI	48	NAV	NAV	0.41
CBI	CBI	CBI	do	NAV	CBI	CBI	35	NAV	NAV	0.01
CBI	CBI	CBI	do	NAV	CBI	CBI	30	NAV	NAV	0.08
CBI	CBI	CBI	do	NAV	CBI	CBI	26	NAV	NAV	0.08
CBI	CBI	CBI	do	NAV	CBI	CBI	26	NAV	NAV	0.20
CBI	CBI	CBI	do	NAV	CBI	CBI	25	NAV	NAV	0.14
CBI	CBI	CBI	do	NAV	CBI	CBI	24	NAV	NAV	0.14
CBI	CBI	CBI	do	NAV	CBI	CBI	23	NAV	NAV	0.15
CBI	CBI	CBI	do	NAV	CBI	CBI	21	NAV	NAV	0.12

[+] See Section V(C)(10) for Data Sources.
[a] Waste codes are reported in source.
[b] Data represent bench-scale data.
NAV—Not available.
NAP—Not applicable.
CBI—Confidential Business Information

8. Thallium

The Agency does not have treatment data for thallium. We are considering a treatment standard for thallium of 0.9 mg/l as measured by the Extraction Procedure (EP) Toxicity Test (40 CFR 261).

a. *Wastewater.* In the absence of treatment data for thallium in wastewater, the Agency reviewed the theoretical solubility limits of thallium in comparison with the other California List metals. As shown in Table 16, the solubility product for thallium is much lower than for the other California metals. From these data, it appears that chemical precipitation can be used to achieve the EP regulatory level. The Agency solicits data and information that would aid in analyzing treatment performance for thallium in wastewater.

b. *Waste Other than Wastewater.* In the absence of treatment data for thallium in waste *other than wastewater*, the Agency reviewed the general literature on waste stabilization. The literature review indicates that pH and solubility are significant factors affecting that solidification. In that pH is a controlled variable and the solubility of thallium is very low at high pH, it appears that it is theoretically possible to achieve the EP regulatory level. The Agency solicits data and information that would aid in analyzing treatment performance for thallium in waste other than wastewater.

TABLE 16.—SOLUBILITY PRODUCTS OF SELECTED METAL HYDROXIDES AND SULFIDES

Metal compound	Ksp
Lead: $Pb(OH)_2$	1.2×10^{-15}
Cadmium; $Cd(OH)_2$ fresh	2.5×10^{-14}
Nickel: $Ni(OH)_2$ fresh	2.0×10^{-15}
Thallium: $Tl(OH)_3$	6.3×10^{-46}
Mercury: $Hg(OH)_2$	3.010^{-26}
Arsenic:	
$As^{+3}+30H$	2.0×10^{-1}
As_2S_3	2.1×10^{-22}

Source: Lange's Handbook of Chemistry.

9. Cyanide

a. *Data Summary.* The Agency has 21 usable data points on the treatment of cyanide in wastewater from four facilities. Of the 21 data points, 20 are lower than the health based value of 20 mg/l. Eighteen of the data points that achieved the health-based prohibition level resulted from cyanide oxidation using ozone, one used alkaline chlorination, and one used electrolytic oxidation. The one data point that did not achieve the health-based prohibition level reflected electrolytic treatment. Table 17 provides a summary of all available data for cyanide in wastewater.

The Agency did not evaluate treatment of cyanide in wastes *other than wastewaters.* We believe treatment other than destruction is inappropriate; therefore, cyanide-containing wastes should not be solidified prior to treatment. We recognize, however, that

wastewater treatment will result in some concentration of cyanide in the residual solids. To exceed the health-based prohibition level of 20 mg/l, this residual concentration would need to be in excess of 400 mg/kg. The Agency does not believe this will be the case. The Agency, therefore, has not included data on treatment of cyanide-bearing sludges in this notice because no available data exist to show that these wastes contain cyanide concentrations that exceed 400 mg/kg.

b. *Data Analysis—Wastewater.* (i) Waste Characterization Analysis. As stated above, 20 of the 21 data points show that the health-based prohibition level for cyanide can be achieved. The Agency has limited data on the range of waste characteristics pertinent to an evaluation of the performance of cyanide oxidation technology. Most of the available waste characteristic data that are important to an engineering analysis involve other metals and total organic carbon.

The treatment data show a maximum influent concentration for cyanide of 75,000 mg/l. The literature indicates untreated wastes may have concentrations of cyanide as high as 100,000 mg/l, comparable to the highest cyanide influent concentrations for which the Agency has treatment data.

(ii) Design and Operating Parameter Analysis. The Agency has limited design and operating data from four facilities. Three of the facilities presented data for one point each and the fourth facility presented operating data for 18 points. The technologies used are ozonation, alkaline chlorination, and electrolytic oxidation.

(iii) Discussion. The Agency's best engineering judgment is that the health-based prohibition level of 20 mg/l for cyanide can be met for the full range of California List wastewaters containing cyanide. In support of this position, the Agency points to the cyanide oxidation theory and our knowledge of the technologies available to minimize the effects of constituents in the waste that can interfere with treatment performance. Additionally, the available data would not lead us to conclude otherwise.

In the case of the data point that does not show achievement of the health-based prohibition level of 20 mg/l, there are insufficient waste characterization data to indicate why the EP regulatory level could not be met. Additionally, for this data point, there is only limited design and operating data reported; however, it appears that insufficient retention time resulted in poor performance.

The Agency recognizes the lack of data on the full range of waste characteristics and design and operating conditions that may affect treatment effectiveness. Therefore, we are soliciting data on waste characteristics that can affect performance for cyanide in wastewaters. A description of the specific waste characterization data and design and operating data that the Agency needs can be found in Section V(E), Request for Comments.

TABLE 17.—CYANIDE DATA FOR WASTEWATER

Source [1]	Industry	Process generating waste	Treatment process	Waste codes [2]	Waste characterization data		Cyanide Concentration Data	
					Parameter	Concentration (mg/l)	Untreated total (mg/l)	Treated total (mg/l)
JWPCF	NAV	Plating bath wastes	Electroyltic oxidation	NAV	NAV	NAV	75,000	0.2
Chem Pro Inc.	NAV	Plating bath wastes and rinses.	do	NAV	TOC	37,000	16,000	1,000
Frontier Chemical Company.	NAV	Cyanide Drum Rinse	Cyanide oxidation by alkaline chlorination.	F007- F012	TOC Cadmium Lead Nickel	20,000 230 21 1,400	5,800-011,000	<5
Electro-plating Plant	NAV	Electroplating	Cyanide oxidation with ozone	NAV	NAV	NAV	130	0.90
Do	NAV	do	do	NAV	NAV	NAV	107	0.44
Do	NAV	do	do	NAV	NAV	NAV	83	0.86
Do	NAV	do	do	NAV	NAV	NAV	82	0.30
Do	NAV	do	do	NAV	NAV	NAV	76	0.90
Do	NAV	do	do	NAV	NAV	NAV	75	0.65
Do	NAV	do	do	NAV	NAV	NAV	72	0.54
Do	NAV	do	do	NAV	NAV	NAV	69	0.39
Do	NAV	do	do	NAV	NAV	NAV	68	0.41
Do	NAV	do	do	NAV	NAV	NAV	67	0.35
Do	NAV	do	do	NAV	NAV	NAV	66	0.38
Do	NAV	do	do	NAV	NAV	NAV	64	0.70
Do	NAV	do	do	NAV	NAV	NAV	58	0.30
Do	NAV	do	do	NAV	NAV	NAV	53	0.58
Do	NAV	do	do	NAV	NAV	NAV	49	0.10
Do	NAV	do	do	NAV	NAV	NAV	49	0.30
Do	NAV	do	do	NAV	NAV	NAV	48	0.50
Do	NAV	do	do	NAV	NAV	NAV	38	0.14

[1] See Section V(C)(10) for Data Sources.
[2] Waste codes as reported in source.
NAV-Not available.

10. Data Sources

Battery Manufacturing Dev. Doc.

U.S. Environmental Protection Agency. Development Document for Effluent Limitations Guidelines and Standards for Battery Manufacturing Point Source Category. Volumes I and II. EPA 440/1-84/067. August 1984.

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CHEM PRO

U.S. Environmental Protection Agency, Office of Research and Development. Facility Test Report for

Chemical Processors, Inc., Seattle, Washington. Prepared by Metcalf & Eddy, Inc., under EPA Contract No. 68–03–3166. July 1986.

Electroplating Plant

U.S. Environmental Protection Agency, Office of Research and Development. Briefing—Technologies Applicable to Hazardous Waste. Prepared by Metcalf & Eddy, Inc.

Envirite

U.S. Environmental Protection Agency, Office of Solid Waste. Onsite Engineering Report of Treatment Technology Performance and Operation for Envirite Corporation. Prepared for EPA under EPA Contract No. 68–01–7053. December 1986.

EWE

U.S. Environmental Protection Agency, Office of Research and Development. Facility Test Report for Environmental Waste Enterprises, Eloy, Arizona. Prepared by Metcalf & Eddy, Inc., under EPA Contract No. 68–03–3166. February 1986.

Frontier Chemical Company

U.S. Environmental Protection Agency, Office of Research and Development. Facility Test Report for Frontier Chemical Waste Process, Inc. Prepared by Metcalf & Eddy, Inc., under EPA Contract No. 68–03–3166. November 1985.

HAZCO

Hazco. Technical Fact Sheet for HAZCO Solidification Agents.

JWPCF

Easton, John K. Electrolytic Decomposition of Concentrated Cyanide Plating Wastes. Water Pollution Control Federation Journal. 39:1621–1625. October 1967.

Lange's Handbook of Chemistry

Dean, John A. Lange's Handbook of Chemistry. Twelfth Edition. McGraw-Hill Book Company, 1979, pp. 5–12.

Metal Finishing Dev. Doc.

U.S. Environmental Protection Agency. Development Document for Effluent Limitations Guidelines and Standards for the Metal Finishing Point Source Category. EPA 440/1–83/091. June 1983.

Nonferrous Metals Dev. Doc.

U.S. Environmental Protection Agency. Development Document for Effluent Limitations Guidelines and Standards for the Nonferrous Metals Point Source Category, Volume III. EPA–440/1–83/019–6. March 1983.

UNH

Bishop, Paul L., Steven B. Ransom, and David L. Gress. "Fixation Mechanisms in Solidification/Stabilization of Inorganic Hazardous Wastes." In: Proceedings of the 38th Industrial Waste Conference, ed. John M. Bell. Boston: Butterworth Publishers, 1984, pp. 395–401.

126

Delisting Petition No. 126. Westinghouse Electric Corporation. Waste Code F006.

161

Delisting Petition No. 161. TRW Carr Division. Waste Code F006.

192

Delisting Petition No. 192. Chemlime Corporation. Waste Codes K062, D002, F006, F007, F008, F009, F012.

548

Delisting Petition 548. The General Motors Corporation, Fisher Body Division. Waste Code F006.

591

Delisting Petition No. 591. D.A.B. Industries, Inc. Waste Code F006.

617

Delisting Petition No. 617. Bethlehem Steel Corporation. Waste Code K061.

638

Delisting Petition No. 638. Chemical Waste Management. Waste Code Unspecified.

657

Delisting Petition No. 657. Universal Fasteners, Inc. Waste Codes F006, F008, and F009.

681

Delisting Petition No. 681. Bethlehem Steel Corporation. Waste Code K061.

688

Delisting Petition No. 688. Roanoke Electric Steel Corporation. Waste Code K061.

D. Conclusions.

The Agency has evaluated the technologies used to treat California List metals and cyanide wastes and its best engineering judgment is that wastewater and non-wastewater California List wastes can be treated to achieve EP regulatory levels or health-based prohibition levels for metals and to a level of 20 mg/1 for cyanide. Given the potential diversity of California List wastes, the Agency does not believe it possible at this time to establish more tailored treatment standards, and so instead is evaluating treatment standards achievable by a wide group of wastes. More specific determinations will be made when rules establishing treatment standards for Section 3004(g) wastes are promulgated.

Table 18 summarizes the number of treatment data points that achieve the EP regulatory level for each constituent. The Agency does not have treatment data for thallium. For this constituent, we estimated that available treatment could achieve the health-based prohibition level based on a comparison of solubility products for the various California List metals and a review of the critical elements of effective stabilization technology.

TABLE 18.—NUMBER OF DATA POINTS MEETING THE EP VALUE

Constituent	Wastewater		Waste other than wastewater	
	No. of usable data points	No. meeting EP value	No. of usable data points	No. meeting EP value
Arsenic	3	3	11	11
Cadium	16	13	43	30
Hexavalent chromium	7	7	7	2
Lead	16	15	94	90
Mercury	5	5	102	96
Nickel	35	34	40	38
Selenium	3	3	19	16
Thallium				

TABLE 18.—NUMBER OF DATA POINTS MEETING THE EP VALUE—Continued

Constituent	Wastewater		Waste other than wastewater	
	No. of usable data points	No. meeting EP value	No. of usable data points	No. meeting EP value
Cyanide	21	20		

It is EPA's tentative view that these data corroborate that the contemplated treatment standards can be achieved by a wide group of California List wastes.

The treatment data for all constituents are limited, however, particularly with respect to waste characterization data that affect treatment and design and operation of the technologies. The specific data that EPA is lacking for each California List metal and cyanide can be ascertained by combining the treatment technology discussion, which describes the data needed for an engineering analysis of technology performance (Section V(B)), with the data tables that present available data for each treated constituent (Section V(C)). In addition, within the Agency's data analysis discussions for each constituent, we have highlighted the data gaps and/or reported information concerning various aspects of waste characteristics, design, and operating parameters that might affect the Agency's preliminary conclusions that EP regulatory levels and health-based prohibition levels uniformly can be achieved.

EPA is soliciting comments on all aspects of the treatment data presented and is again requesting additional data that would impact on the Agency's preliminary assessment that treatment levels can be established at the EP regulatory levels or at health-based prohibition levels for the California List metals and at a level of 20 mg/1 for cyanide. In Section V(E), the Agency describes the specific data needed for its evaluation of additional data on treatment of California List metals and cyanide in wastewaters and wastes other than wastewater.

E. Request for Comments

Throughout this Notice of Data Availability, EPA has indicated that limited data exist to analyze treatment performance for wastes containing California List metals and cyanide. Existing data are only sufficient for corroborating engineering judgment. As noted earlier, the Agency lacks specific treatment data (i.e. waste characterization, design, and operating data) for certain categories of California List metals and cyanides. This section describes the specific waste characterization and design and operating information that should accompany any waste treatment data suppied to the Agency. In this section, we have only provided specific data requests for the technologies associated with the vast majority of the data. For other technologies upon which commenters wish to provide treatment data, the commenter should refer to Section V(B), Applicable Technologies, for a listing of the data needed by the Agency.

1. Wastewaters Containing California List Metals, Except Hexavalent Chromium

For Wastewaters, the principal technology used to treat California List metals (excluding hexavalent chromium) is chemical precipitation.

a. *Waste characterization data.* The specific waste characterization data needed to assess the performance of this technology include:

- Initial metal concentration of untreated wastewater;
- Whether the metal exists as a complex;
- Valence state for the metals, arsenic, chromium, lead, and mercury;
- Other metals present in the waste;
- Presence of high concentrations of dissolved inorganic solids in solution (i.e., salinity);
- Presence of oil and grease in the waste; and
- Presence of surfactants in the waste.

b. *Design data.* The Agency needs design data on the treatment system used to treat the wastes. If a continuous chemical precipitation system was used, EPA needs the following design data:

- Design pH value and the basis for selection of this value (e.g., bench scale jar test results). The commenter should also provide the temperature at which the design tests were performed.
- Design treatment chemical(s) used to achieve the pH value.
- Design settling time, associated untreated waste feed rate and tank size, and the basis for selection of these values (e.g., total suspended solids (TSS) value from bench scale jar tests). Include information on any flocculating or coagulating aids used to improve settling characteristics and reduce required retention times.

For batch treatment systems, the Agency needs the same design information listed above, except it does not request waste feed rate and tank size.

c. *Operating data.* The operating data that the Agency needs to ensure that the design conditions were being achieved during generation of the treatment data are:

- pH and temperature values throughout the treatment period; and
- Untreated wastewater flowrates throughout the treatment period.

For batch systems, the Agency needs the same information except, instead of wastewater flowrate, we need the settling time and/or any operating parameter used as a check to ensure that sufficient settling has been accomplished (e.g., TSS, turbidity, or metal concentration in the treated waste).

2. Wastewaters Containing Hexavalent Chromium

For wastewaters containing hexavalent chromium, the principal treatment technology is chromium reduction.

a. *Waste characterization data.* The specific waste characterization data needed to assess the performance of chromium reduction technology include:

- Initial hexavalent chromium concentration in the untreated wastewater;
- Whether the hexavalent chromium exists as a complex;
- Other metals that could be reduced; and
- Presence of oil and grease in the waste.

b. *Design data.* The Agency needs design data on the treatment system used to treat hexavalent chromium. If a continuous hexavalent chromium reduction system was used, EPA needs the following design data:

- Design ORP (oxidation—reduction potential) value and the basis for selection of this value (e.g., bench scale tests comparing ORP readings with hexavalent chromium concentrations).

The commenter should also provide the associated pH values.

- Design treatment chemical(s).
- Design retention time, associated untreated waste flow rate and tank size, and the basis for selections of these values (e.g., ORP value from bench scale tests).

For batch treatment system, EPA needs the same design data, except it does not request waste feed rate and tank size.

c. *Operating data.* The operating data that the Agency needs to ensure that the design conditions were being achieved during generation of the treatment data are:

- ORP and pH during the treatment period; and
- Untreated wastewater flow rate during the period of treatment.

For batch hexavalent chromium reduction systems, EPA needs the same data except instead of wastewater flowrate, the Agency needs the retention time of the waste during treatment or the operating parameter used to determine that reduction was complete (e.g., hexavalent chromium concentration or ORP).

3. Wastewaters Containing California List Cyanides

For wastewaters containing "free" cyanide, the principal treatment technology is cyanide oxidation.

a. *Waste characterization data.* The specific waste characterization data needed to assess the performance of this technology include:

- Initial concentration of cyanide in the wastewater;
- Presence of metals that complex with cyanide (e.g., iron and nickel);
- Presence of metals that can be oxidized (e.g., trivalent chromium and ferrous iron);
- High levels of oil and grease; and
- High levels of surfactants.

b. *Design data.* The Agency needs design data on cyanide oxidation systems used to treat "free" cyanide wastewaters. If a continuous oxidation system was used, EPA needs the following design data:

- ORP design value and the basis for selection of this value (e.g., bench scale tests comparing ORP readings with "free" cyanide concentration). The commenter should provide the associated pH values;
- Type of oxidizing agent and the basis for selection; and
- Design reaction time, associated flow rate of the waste, and the basis for selection of these values (e.g., cyanide levels in bench scale tests).

For batch treatment systems, the Agency needs the same design information except it is not requesting waste feed rate.

c. *Operating data.* The operating data that the Agency needs to ensure that the design conditions were being achieved during generation of the treatment data are:

- ORP and pH values throughout the treatment period; and
- Untreated wastewater flowrate throughout the treatment period.

For batch systems, the Agency needs the retention time or any operating parameter (e.g., cyanide concentration or ORP) used as a check to ensure sufficient oxidation has been accomplished.

4. Wastes Other Than Wastewater Containing California List Metals

For wastes other than wastewater, stabilization was the treatment technology used in all instances.

a. *Waste characterization data.* The specific untreated waste characterization data that EPA needs are:

- Initial metal concentrations for the untreated waste;
- Initial metal concentrations in the untreated waste leachate;
- Other metals present;
- Presence of certain dissolved inorganic and organic compounds containing metal salts, sulfates and borates that can affect stabilization; and
- Presence of high levels of oil and grease.

b. *Design data.* The Agency also needs the following design data for the stabilization system used to treat the waste:

- Specific stabilizing agent and other additives used and the ratio of waste to stabilizing agent, and the basis for this selection (e.g., bench scale test data). The commenter should also provide the temperature and humidity at which any bench scale or other design-basis tests were performed.
- Design curing time and the basis for selection of this value (e.g., unconformed compressive strength tests of stabilized waste matrix).

c. *Operating data.* The operating data that EPA needs to ensure that design conditions were being achieved during generation of the treatment data are:

- The ratio of waste to stabilizing agent;
- The curing time for the stabilized waste including the basis for determining that the waste was completely stabilized (e.g., compressive strength tests); and
- Ambient temperature and humidity during the curing process.

VI. Alternative Treatment Capacity For California List Metals and Cyanides

A. Volumes Requiring Alternative Capacity

For promulgation of the California list final rule (52 FR 25760, July 8, 1987), EPA estimated that the maximum volumes of metal and cyanide wastes that would require alternative treatment capacity would be 8,440 million gallons of metal wastes per year, and 690 million gallons of cyanide wastes per year (see Background Document for California list wastes—final rule). (These volumes, however, do not include hazardous wastes being injected pursuant to the Underground Injection Control Program.) These volumes represent the maximum possible volume of California list wastes, rather than the volume of wastes which exceed the statutory prohibition levels. The volume estimates are based on the 1981 RIA Mail Survey, which contained very little quantitative concentration data. Therefore, these volumes include all hazardous waste streams that were land disposed and that contained any cyanides or California list metals. The Agency also estimated that of these wastes, 25 million gallons could be cyanide-bearing sludges, and over 1,455 million gallons could be metal-bearing sludges. The Agency expects that these wastes would be treated by solidification or other non-wastewater treatment technologies, while the remaining wastewaters would be treated by wastewater treatment technologies.

EPA recognizes the limitations of the data bases for estimating volumes affected by the California list rule, and thus requests data indicating the volumes of wastes that would be affected if EPA lowers the restriction levels. EPA requests that commenters differentiate among specific metal-bearing (i.e., arsenic, cadmium, chromium, lead, mercury, nickel, selenium, or thallium) and cyanide-containing wastes that currently are land disposed. In addition, the commenters should indicate whether the waste is a wastewater, or a sludge or solid that either is a liquid (as defined by the PFLT) or is derived from treating a liquid waste that contains greater than the prohibition levels (i.e., the EP regulatory levels or analogous health-based levels) of California list constituents discussed in this notice. Commenters should also indicate management methods currently used for these wastes, and address whether the wastes meet the treatment standards under consideration in this notice.

B. Alternative Treatment Capacity

EPA currently has limited information on available alternative treatment for metals and cyanides. Analysis of the 1981 RIA Mail Survey indicated a limited amount of commercial capacity. However, comments on the proposed California list rule indicate that there have been significant changes in commercial capacity since the 1981 survey. Thus, EPA is requesting information on the volume of available commercial capacity for treatment of metals and cyanides capable of achieving the prohibition levels discussed in this notice. In addition, some commenters have indicated that additional on-site capacity exists that could be used to manage California list wastes that were also generated on-site. Certain facilities may already have on-site treatment systems or may have impoundments satisfying the § 268.4 and RCRA section 3005(j)(11) criteria to handle these California list wastes. In addition, some facilities may be able to expand or upgrade their existing treatment capacity quickly to handle their California list wastes. Thus, EPA is requesting information with respect to on-site treatment capacity, particularly capacity built after 1980. In addition, EPA is also requesting information on the time needed to develop new capacity, especially the time needed to develop large treatment systems. Commenters should address all steps in development of capacity: general planr ing, engineering design and plans, bid solicitation and evaluation, construction and start-up.

C. Possible National Capacity Variances

The greatest volumes of potential California list wastes shown in the 1981 survey are wastewaters managed in surface impoundments. 51 FR 44732. These wastes could require alternative treatment capacity in non-land based units (presumably tanks) or in retrofitted surface impoundments satisfying § 268.4. Commenters to the proposed California list rule have stressed the difficulties in installing alternative treatment systems without substantial delay. EPA has noted that these comments have merit in many cases. If the volumes of metal-bearing and cyanide-containing wastes needing alternative treatment exceed available capacity, the Agency would consider granting national capacity variances.

EPA believes the maximum duration of such a variance would be November 8, 1988, the date on which most interim status surface impoundments must meet minimum technology requirements, or cease receiving, storing or treating hazardous wastes (RCRA section 3005(j)(1)). If affected facilities do not retrofit their surface impoundments to comply with these requirements, these facilities must develop alternative treatment systems on-site (e.g., tank treatment), or transport the wastes off-site for treatment. The Agency expects that facilities which generate certain large volume flows will either retrofit surface impoundments to meet the 3005(j)(1) requirements, or install tank treatment systems as necessary. New capacity developed to comply with the minimum technology requirements, along with existing commercial capacity, should provide sufficient capacity for California list metals and cyanides beyond November 8, 1988. The Agency solicits comments on this tentative conclusion.

VII. Alternative Procedures for Treatability Variances

The Agency noticed for comment in the December 11, 1986 proposed rule the issue of using non-rulemaking procedures for processing treatability variances (§ 268.44). 51 FR 44729. In the recent final rulemaking on California list hazardous wastes (52 FR 25760), the Agency determined that treatment method equivalency petitions (§ 268.42(b)) need not be processed by rulemaking where the relief sought would not have generic applicability and effect. 52 FR 25780. The Agency believes tentatively that this same reasoning could apply to the analogous treatability variance and therefore solicits further comment on the issue of amending § 268.44 so that informal rulemaking procedures are not mandated for all applications.

Dated: July 24, 1987.

J. Winston Porter,

Assistant Administrator.

[FR Doc. 87-17882 Filed 8-11-87; 8:45 am]

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August 12, 1987

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 310, 341, and 369

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Final Monograph for OTC Antitussive Drug Products; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 310, 341, and 369

[Docket No. 76N-052T]

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Final Monograph for OTC Antitussive Drug Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule in the form of a final monograph establishing conditions under which over-the-counter (OTC) antitussive drug products (drug products used to relieve cough) are generally recognized as safe and effective and not misbranded. FDA is issuing this final rule after considering public comments on the agency's proposed regulation, which was issued in the form of a tentative final monograph, and all new data and information on antitussive drug products that have come to the agency's attention. This final monograph is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: August 12, 1988.

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

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 9, 1976 (41 FR 38312), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products, together with the recommendations of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products (Cough-Cold Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by December 8, 1976. Reply comments in response to comments filed in the initial comment period could be submitted by January 7, 1977.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed regulation, in the form of a tentative final monograph, for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products is being issued in the following segments: Anticholinergics and expectorants, bronchodilators, antitussives, nasal decongestants, antihistamines, and combinations. The third segment, the tentative final monograph for OTC antitussive drug products, was published in the **Federal Register** of October 19, 1983 (48 FR 48576). Interested persons were invited to file by December 19, 1983, written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by February 14, 1984. New data could have been submitted until October 19, 1984, and comments on the new data until December 19, 1984. Final agency action occurs with the publication of this final monograph, which is a final rule establishing a monograph for OTC antitussive drug products.

The agency's final rule, in the form of a final monograph, for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products is also being published in segments. Final agency action on OTC antitussive drug products occurs with the publication of this document, which establishes § § 341.3 (b) and (c), 341.14, 341.74, and 341.90 (b) and (c) for OTC antitussive drug products in Part 341 (established in the **Federal Register** of October 2, 1986; 51 FR 35326).

The OTC procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

As discussed in the proposed regulation for OTC antitussive drug products (48 FR 48576), the agency advises that the conditions under which the drug products that are subject to this monograph will be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication in the **Federal Register.** Therefore, on or after August 12, 1988, no OTC drug product that is subject to the monograph and that contains a nonmonograph condition, i.e., a condition that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In response to the proposed rule on OTC antitussive drug products, four drug manufacturers, two health professionals, and two health care professional societies submitted comments. Copies of the comments received are on public display in the Dockets Management Branch. Any additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch.

In proceeding with this final monograph, the agency has considered all comments and objections, and the changes in the procedural regulations.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-date notice published in the **Federal Register** of August 9, 1972 (37 FR 16029) or to additional information that has come to the agency's attention since publication of the notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Conclusions on the Comments

A. General Comment on OTC Antitussive Drug Products

1. One comment contended that OTC drug monographs are interpretive, as opposed to substantive regulations. The comment referred to statements on this

issue submitted earlier to other OTC drug rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, published in the **Federal Register** of May 11, 1972 (37 FR 9464) and in paragraph 3 of the preamble to the tentative final monograph for antiacid drug products, published in the **Federal Register** of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated there. Subsequent court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association* v. *Weinberger*, 512 F.2d 688, 696–98 (2d Cir. 1975) and *National Association of Pharmaceutical Manufacturers* v. *FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd*, 637 F.2d 887 (2d Cir. 1981).

B. Comments on the Switch of Prescription Antitussives to OTC Status

2. Two comments opposed the agency's proposal to reclassify benzonatate from prescription to OTC status and requested that benzonatate remain a prescription drug because of the possibility of oropharyngeal anesthesia if benzonatate is released in the oral cavity. One comment, submitted by the manufacturer of the only benzonatate product on the market, maintained that the warning statement "Swallow without chewing or dissolving in the mouth. May produce temporary numbness if dissolved in the mouth" is not adequate for OTC use of this drug. The comment stated that, although the product has been marketed as a prescription drug for 24 years with minimal adverse reactions, rapid oropharyngeal anesthesia could result in more severe reactions than temporary numbness, such as choking. The comment added that expanded use of benzonatate by the "unsophisticated consumer," not under professional supervision, could further complicate the issue. The other comment contended that the reading and comprehension levels of the consumer are poor and that public compliance is even poorer. It requested that FDA "think long and hard before turning any more oral medications over to the public for use and abuse." One comment agreed with the agency's proposal to reclassify benzonatate from prescription to OTC status but did not provide any additional information in support of its position.

The agency has reviewed the comments and finds a lack of support in switching benzonatate to OTC status. Only three comments were received, two of which opposed the switch. The agency received no comments from the medical and scientific communities or from consumers on this issue. It should be noted that, in 1981, the manufacturer of the only benzonatate products on the market submitted a supplemental new drug application (NDA) that requested OTC status for the product. Subsequently, based upon a careful review of the prescription drug products (i.e., the approved NDA, the 24-year-marketing history, the available adverse reaction reports, and safety and effectiveness data in the scientific literature), the agency proposed the switch of benzonatate from prescription to OTC marketing status in the tentative final monograph for OTC antitussive drug products (48 FR 28591 to 28592). Although recommending Category I status for the ingredient, the agency recognized that benzonatate has a secondary pharmacological effect as a local anesthetic and that oropharyngeal anesthesia may develop rapidly if the ingredient is released in the oral cavity. Therefore, in the tentative final monograph the agency proposed the warning about swallowing the product without chewing or dissolving it in the mouth, as mentioned by one of the comments.

In proposing this switch, the agency did not permit OTC marketing at that time but stated that public comments submitted in response to the proposed switch should be evaluated before OTC marketing began (48 FR 48591). Likewise, the agency held approval of the supplemental NDA in abeyance, until public comments to the proposed change in status were evaluated. Since that time, the manufacturer has withdrawn its supplemental NDA for OTC status for benzonatate, and in a comment responding to the tentative final monograph (Ref. 1) has requested that benzonatate remain available by prescription only. (See summary of comment above.)

Because of the concerns raised over the agency's proposed labeling, the possibility of anaphylactic reactions, and the possibility of oropharyngeal anesthesia occurring if a benzonatate capsule were chewed or dissolved in the mouth, the agency has determined that benzonatate should only be used under professional supervision. Accordingly, the agency concludes that benzonatate should not be available for OTC use.

Reference

(1) Comment No. C00192, Docket No. 76N–052T, Dockets Management Branch.

3. One comment objected to OTC status for chlophedianol hydrochloride because the public's reading and comprehension levels are poor to bad, and public compliance is even poorer. The comment stated that the "typical John Q. Public" believes that if one helps, two is better, and three is a miracle, and concluded that FDA should "think long and hard before turning any more oral medications over to the public for use and abuse."

The agency based its decision to switch chlophedianol hydrochloride from prescription to OTC marketing status as an antitussive drug product on a careful review of the approved NDA, the marketing history, the available adverse reaction reports, and safety and effectiveness data in the scientific literature (48 FR 48578 and 48579). The agency proposed labeling for this ingredient that it considered adequate to inform and protect the consumer and made every effort to provide labeling that is comprehensive, clear, and concise. The agency believes that the consumer is capable of reading, understanding, and following the label warnings and directions proposed for this drug. The agency proposed directions for use for chlophedianol hydrochloride to provide for a dose of the drug every 6 to 8 hours, not to exceed 4 doses in 24 hours. The agency has no reason to believe, and the comment did not offer any data to support its contention, that consumers would take 2 to 3 dosage units of this medication despite labeling directions to the contrary. This comment was the only comment received opposing the proposed OTC status of chlophedianol hydrochloride. The comment did not submit any data indicating that this drug should not be available OTC, and the ingredient is being included in this final monograph.

C. Comments on Specific OTC Antitussive Active Ingredients

4. One comment from the Committee on Drugs of the American Academy of Pediatrics opposed the reclassification of camphor-containing ointments from Category III to Category I. Based upon "scientific understanding of the mechanism of action of established antitussive agents," the comment did not believe that camphor would suppress a cough when applied to the chest and neck. The comment stated that the proposed labeling "rub on the throat and chest a thick layer * * * to help the

vapors rise to reach the nose and mouth" is confusing when considered in conjunction with the proposed warning "Do not take by mouth or place in nostrils." The comment added that skin and mucosal absorption of camphor is well known and that the heavy application of thick layers of camphor subjects the young child to unnecessary risk of toxicity.

A reply comment pointed out that "central action is not the only mechanism for antitussive activity" and stated that "inhalation of the aromatic vapors provides antitussive activity by local or peripheral action, because of the probable local anesthetic/analgesic properties of the aromatics." It added that the latest investigational methods have shown that camphor provides statistically significant reductions in cough, and that FDA reviewed the full reports of these studies, inspected the facilities of the investigators, and reached the same conclusion.

The reply comment stated that there is no justification for banning useful drugs in all dosage forms and concentrations. It recognized the concern regarding accidental ingestion of large overdoses of camphor in camphorated oil by children, but did not agree that the same degree of hazard or mistaken identity applies to the external use of much smaller concentrations of camphor (i.e., 5 percent) in ointment dosage form.

The reply comment included one new study to support the safety of a 5-percent camphor ointment used externally on young children and three new studies to support the safety of a combination drug product containing camphor, eucalyptol, menthol, and thymol used externally in ointment form on young children (Ref. 1). The reply comment added that these studies show that there is no need for the general OTC restriction for children 2 years of age and over in the label warning. The reply comment also stated that current labeling adequately describes directions for use and warnings against "misuse and accidental possession by children." The labeling specifically warns parents to keep the product out of children's reach, not to swallow the product, and not to place it in the nostrils.

The agency notes that the Cough-Cold Panel mentioned several different mechanisms of action by which an antitussive agent suppresses or inhibits cough (41 FR 38338). Among these, an antitussive agent may work directly by diminishing the sensitivity of the cough receptors in the membranes lining the throat and respiratory passages, and it may act indirectly by exerting a soothing action on irritated or inflamed throat tissues. The agency agrees with the reply comment that inhalation of camphor provides antitussive activity by the local or peripheral action of its vapors.

Data from two new studies submitted in response to the advance notice of poroposed rulemaking for OTC cough-cold drug products were reviewed by the agency when preparing the tentative final monograph for OTC antitussive drug products. These data supported the effectiveness of camphor in reducing the number of coughs when compared to a control (48 FR 48579). No data refuting the effectiveness of camphor as an antitussive agent have been submitted, and the agency reaffirms its determination that camphor is an effective topical antitussive agent.

Various panels and the agency have reviewed and evaluated a great deal of data on the safety of camphor at different concentrations in different vehicles. The Advisory Review Panel on OTC Miscellaneous External Drug Products, in its statement concerning OTC drug products containing camphor, published in the **Federal Register** of September 26, 1980 (45 FR 63878), recommentded that the quantity of camphor in OTC drug products be limited to 2.5 percent. The Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products concluded that camphor is safe for topical use at concentrations up to 11 percent (44 FR 69802 to 69803). After reviewing both Panel reports, the agency stated in the tentative final monograph for OTC external analgesic drug products, published in the **Federal Register** of February 8, 1983 (48 FR 5854), that the camphor concentration in OTC drug products is being limited to 11 percent or lower. In addition, in the **Federal Register** of September 21, 1982 (47 FR 41716), the agency published a final rule declaring camphorated oil products (which contained 20 percent camphor in cottonseed oil) to be new drugs and misbranded because of the potential hazard for poisoning to occur, primarily in infants and young children, based on a large number of accidental ingestions of this product, often mistaken for castor oil, cod liver oil, mineral oil, olive oil, cough medicine, or other drug products. The agency concluded that the benefit from using such products is insignificant when compared to the risk.

The Cough-Cold Panel stated that clinical experience has confirmed that camphor, when applied topically or as an inhalant, is safe in the dose ranges used as an antitussive (41 FR 38344). The agency has found only three reported cases of camphor poisoning due to inhalation or skin absorption (Refs. 2, 3, and 4). In one case, a 15-month-old infant crawled through spirits-of-camphor (containing 10 percent camphor that had been spilled) and subsequently experienced ataxia and brief, generalized, major motor seizures. A year later, the same infant came into contact with a camphorated vaporizer containing 4.81 percent camphor and had another brief major motor seizure. The occurrence of the seizures with two camphor exposures a year apart indicates a specific sensitivity to camphor (Ref. 2). In another case, camphorated oil was applied continually for about 80 hours to the chest of a 2-year-old child. The diagnosis was camphor poisoning, and the child recovered (Ref. 3). The third case was a near fatal incident in a 6-week-old infant after an ointment containing camphor, menthol, and thymol had been rubbed on the infant's chest (Ref. 4). The agency concludes that these three reported nonfatal incidents are not sufficient to demonstrate a lack of safety for 5 percent camphor when used as an antitussive ingredient according to labeling included in this final monograph.

The agency acknowledges that studies have been done to support the safety of using a 5-percent camphor ointment topically on young children (Ref. 1). However, the agency does not agree with the reply comment that the submitted clinical studies demonstrate that the general OTC label warning limiting use of 5 percent camphor in an ointment base to children 2 years of age and older is unnecessary in the labeling of these drug products. In the three reported cases above of camphor poisoning due to inhalation or skin absorption (Refs. 2, 3, and 4), two of the cases, including the near fatality, involved infants under 2 years of age. The reply comment submitted one study in which a 5-percent camphor ointment was applied to 20 newborn babies, ages 6 to 18 days (Ref. 1). The infants were studied for respiratory changes, motor activity, sleep patterns, blood concentrations of camphor, and clinical blood changes. The other studies submitted by the reply comment evaluated the toxic effects of a combination drug product containing camphor, menthol, thymol, and eucalyptol on children and infants (Ref. 1). Although no toxic effects were noted in any of these studies, the agency notes that the studies were performed in the hospital or in pediatric clinics under the close supervision of doctors and nurses. Such use corresponds to the recommended labeling requirement to

consult a doctor before using camphor-containing ointments in children under 2 years of age. The agency does not believe that unlimited use of camphor-containing ointments would be in the public interest and intends to include the 2-year age limit for such products in this final monograph. This age restriction is consistent with the agency's approach to other externally applied drug products containing camphor (48 FR 5869).

The combination drug product mentioned by the reply comment will be addressed in the tentative final monograph for OTC cough-cold combination drug products that will be published in a future issue of the **Federal Register**. Any comments regarding the safety of or age limits for cough-cold combination drug products should be submitted to that rulemaking.

The agency concludes, based on the studies submitted, that the use of a properly labeled ointment containing 4.7 to 5.3 percent camphor as an antitussive agent to be used on the chest and neck, even in a thick layer, poses no threat to the consumer (48 FR 48579). Therefore, the agency is including in this final monograph 4.7 to 5.3 percent camphor in a suitable ointment vehicle as an antitussive agent.

References

(1) Reply Comment No. 3, Docket No. 76N-052T, Dockets Management Branch.

(2) Skoglund, R. R., L. L. Ware, Jr., and J. E. Schanberger, "Prolonged Seizures Due to Contact and Inhalation Exposure to Camphor," *Clinical Pediatrics*, 16:901–902, 1977.

(3) Summers, G. D., "Case of Camphor Poisoning," *British Medical Journal*, 2:1009, 1947.

(4) Dupeyron, J. P., F. Quattrocchi, H. Castaing, and P. Fabiani, "Intoxication Aigue Du Nourrisson Par Application Cutanee D'une Pommade Revulsive Locale et Antiseptique Pulmonaire," *European Journal of Toxicology*, 9:313–320, 1976.

5. One comment stated that the safety of eucalyptus oil requires additional investigation. The comment cited a recent journal article by Courtemanche, Li, and Peterson (Ref. 1) concerning toxicity in children following accidental ingestion of eucalyptus oil and stated that the agency should review this information before developing a final monograph for eucalyptus oil-containing products.

A reply comment from a manufacturer of an antitussive product in an external ointment form stated that the journal article cited above concerned a case of accidental ingestion of 25 milliliters (mL) of reportedly pure eucalyptus oil by a 3-year-old child. The reply comment maintained that although this amount of drug has the potential to produce a severe adverse reaction, it bears no relationship to the amount of eucalyptus oil, i.e., 1.6 percent, found in the ointment product. The reply comment stated that more than eight 6-ounce jars of ointment would have to be consumed in order to ingest the quantity of eucalyptus oil (25 mL) reported in the article, and that the consumption of 48 ounces of ointment by a 3-year-old child is impossible, without even considering the availability of the product and the taste deterrence of the unpalatable petrolatum base. The reply comment concluded that the accidental ingestion of eucalyptus oil, as reported in the article, far exceeds the amount that a child could ingest in an ointment dosage form and that the ingredient is safe in ointment form as an antitussive when used as directed.

The agency has reviewed the Cough-Cold Panel's discussion of the safety of eucalyptus oil (41 FR 38347), the Courtemanche, Li, and Peterson reference cited by the comment (Ref. 1), and additional information by Courtemanche, Li, and Peterson (Ref. 2). The Panel acknowledged that fatalities have occurred following doses of eucalyptus oil as small as 3.5 mL, although recovery has occurred after doses of 20 mL and even 30 mL (41 FR 38347). The Panel believed that the data confirmed the safety of eucalyptus oil as an ointment (1.3 percent), for steam inhalation (1.7 percent), as a lozenge (0.2 to 15 milligrams (mg)), and as a mouthwash (0.9 mg/mL solution), but because effectiveness data were insufficient, eucalyptus oil was classified in Category III.

The article cited by the comment contains a brief review of the signs and symptoms of eucalyptus oil toxicity and the types of treatment that may be used (Ref. 1). The article refers to 13 reports of seizures in children, but provides no details of these cases. An abstract by the same authors notes that a 3-year-old child ingested 25 mL of eucalyptus oil (neat) (Ref. 2). Vomiting followed within 15 minutes. Forty-five minutes later the child was alert, smelled of the oil, had no abnormal respiration, and was given 15 mL of ipecac syrup. During the next 20 minutes, the child's neurologic responses rapidly deteriorated, and the child became unresponsive to pain. A gastric lavage was performed, and within 2 hours the child was awake and oriented; no seizures occurred, and the respiratory status remained normal.

After reviewing the data, the agency agrees with the reply comment that this case of ingestion of 25 mL of pure, undiluted eucalpytus oil should not affect the status of the safety of eucalyptus oil in an ointment form because it is highly unlikely that a child would have access to enough ointment to produce a toxic dose equivalent to the ingestion of 25 mL of pure eucalyptus oil. Likewise, the other dosage forms and concentrations of eucalyptus oil recommended as safe by the Panel contain amounts well below a toxic dose.

Because no data were submitted demonstrating the effectiveness of eucalyptus oil for the uses mentioned above, the ingredient is not included in this final monograph. Eucalyptus oil in combination with other active ingredients will be discussed in the tentative final monograph for OTC cough-cold combination drug products that will be published in a future issue of the **Federal Register**.

References

(1) Courtemanche, N.J., M. Li, and R.G. Peterson, "Coma Following Acute Ingestion of Eucalyptus Oil in a Child," *Veterinary and Human Toxicology*, 25 (Supplement1):46, 1983.

(2) Courtemanche, N. J., M. Li, and R.G. Peterson, "Coma Following Acute Ingestion of Eucalyptus Oil in a Child," *Veterinary and Human Toxicology*, 25:280–281, 1983.

6. One comment requested the agency to place camphor and menthol in Category I as individual OTC antitussive agents for use in a hot steam vaporizer. The comment submitted two new clinical studies to support its request (Refs. 1 and 2).

The agency has reviewed the new data and determined that the two new clinical studies support the reclassification of the individual ingredients camphor and menthol to monograph status as OTC antitussives for use in a hot steam vaporizer at a concentration of 0.05 percent menthol or 0.1 percent camphor in the water of the vaporizer. In the first study (Ref.1), the individual antitussive effect of menthol and camphor vaporized in steam was compared to unmedicated steam. The study involved 40 normal adults (age 18 and older), and cough was induced by citric acid challenge. The data indicated that camphor and menthol produced a statistically significant reduction in cough counts when compared with unmedicated steam at all four post-treatment time points and overall ($p \leq 0.001$).

The second study (Ref. 2) involved 48 adult subjects with chronic bronchitis and was designed to determine the individual antitussive effect of menthol and camphor vaporized in steam as compared with unmedicated steam. The results demonstrated that menthol and camphor were significantly better than

unmedicated steam at reducing cough: menthol at 0 to 30 minutes ($p \leq 0.03$), 2½ to 3 hours ($p \leq 0.01$), and overall, 0 to 3 hours ($p \leq 0.02$); and camphor at 1½ to 2 hours ($p \leq 0.03$), 2½ to 3 hours ($p \leq 0.04$), and overall, 0 to 3 hours ($p \leq 0.06$). The agency concludes that these studies are acceptable to demonstrate the individual antitussive effectiveness of camphor and menthol for use in steam inhalation. Therefore, the agency is including camphor and menthol in the final monograph for OTC antitussive drug products as antitussives for individual use in a hot steam vaporizer at concentrations of 0.05 percent menthol or 0.1 percent camphor in the water of the vaporizer.

In its report, the Cough-Cold Panel recommended the following specific warning for camphor and menthol for use in a steam vaporizer: "For steam inhalation only. Do not take by mouth" (41 FR 38344 and 38351). The agency agrees with the Panel's recommendation and is including this warning in § 341.74(c)(5)(ii) of this final monograph.

The Panel recommended directions for the individual use of camphor and menthol for steam inhalation (41 FR 38344 and 38351). The agency is accepting the Panel's proposed directions for use with the following exceptions. The Panel based its Category III recommendation on the review of data from a study using a combination drug product containing 7 percent camphor and 3.66 percent menthol and recommended that an initial solution of 7 percent camphor or 3.66 percent menthol be used for preparing the final solution for steam inhalation. In the comment's submissions (Refs. 1 and 2), the initial concentrations of the camphor and the menthol solutions that were used in the studies were 6.2 percent and 3.2 percent, respectively. Based on these studies, in this final monograph, the agency is specifying initial concentrations of 6.2 percent camphor or 3.2 percent menthol in the directions for use for steam inhalation.

Additionally, the Panel proposed that 1 tablespoonful of the initial camphor or menthol solutions per quart of water or 2 teaspoonsful per pint of water be used to prepare the final solutions of camphor and menthol. Assuming that a teaspoonful equals 5 mL (Ref. 3), the agency notes that 1½ teaspoonsful of the initial camphor or menthol solutions per pint of water will result in final solutions of 0.1 percent camphor or 0.05 percent menthol. Therefore, in this final monograph, the agency is specifying the use of 1½ teaspoonsful of the initial solutions per pint of water so that the directions for use are more accurate.

The revised Panel's directions for use of camphor for steam inhalation in § 341.14(d)(2)(iv) of this final monograph are as follows: "*For products containing camphor identified in § 341.14(b)(1) for steam inhalation use.* The product contains 6.2 percent camphor. Adults and children 2 to under 12 years of age: add 1 tablespoonful of solution, for each quart of water, directly to the water in a hot steam vaporizer, bowl, or wash basin; or add 1½ teaspoonsful of solution, for each pint of water, to an open container of boiling water. Breathe in the medicated vapors. May be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor." Following these directions will result in a concentration of 0.1 percent camphor in the water of a vaporizer, bowl, or wash basin.

The agency is including in § 341.74(d)(2)(v) of this final monograph the following directions for use of menthol for steam inhalation: "*For products containing menthol identified in § 341.14(b)(2) for steam inhalation use.* The product contains 3.2 percent menthol. Adults and children 2 to under 12 years of age: add 1 tablespoonful of solution, for each quart of water, directly, to the water in a hot steam vaporizer, bowl, or wash basin; or add 1½ teaspoonsful of solution, for each pint of water, to an open container of boiling water. Breathe in the medicated vapors. May be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor." Following these directions will result in a concentration of 0.05 percent menthol in the water of a vaporizer, bowl, or wash basin.

The agency has also revised the definition for topical antitussive drugs in § 341.3(k), redesignated as § 341.3(c), to read "A drug that relieves cough when inhaled after being applied topically to the throat or chest in the form of an ointment or from a steam vaporizer, or when dissolved in the mouth in the form of a lozenge or compressed tablet" to include use of a steam vaporizer for camphor and menthol in this definition.

The agency's detailed comments and evaluation of the data are on file in the Dockets Management Branch (Ref. 4).

References

(1) Reply Comment No. RCO04, Docket No. 76N–052T, Dockets Management Branch.

(2) Report No. RPTO02, Docket No. 76N–052T, Dockets Management Branch.

(3) "The United States Pharmacopeia XXI—The National Formulary XVI." United States Pharmacopeial Convention, Inc., Rockville, MD, p. 1352, 1985.

(4) Letter from W. E. Gilbertson, FDA, to E. J. Hanus, Richardson-Vicks, Inc., coded LET090, Docket No. 76N–052T, Dockets Management Branch.

D. Comments on Dosages for OTC Antitussives

7. One comment requested that the agency's proposed minimum effective antitussive dose for menthol in a lozenge or compressed tablet dosage form be reduced from 5 mg to 3 mg. The comment submitted new data (study CRD 81–10) in support of the 3 mg dose for menthol (Ref. 1). In addition, the comment objected to the agency's finding in the tentative final monograph that study CRD 73–8, previously reviewed by the Panel, is not acceptable to prove the antitussive effectiveness of a dosage of less than 5 mg for menthol in a lozenge or compressed tablet dosage form (48 FR 48585). The comment stated that the agency's contention that study CRD 73–8 is unacceptable because menthol was not studied as a single ingredient, i.e., citric acid was included in the test lozenge but was not included in the placebo lozenge, is inappropriate. The comment explained that citric acid should be considered an inactive, not an active, ingredient. In addition, the quantity of citric acid included in each lozenge (26.9 mg) was quite small and would not be expected to have any significant therapeutic effect on cough. The comment further argued that the Panel classified citric acid as an "inactive and/or pharmaceutical necessary ingredient" (41 FR 38318).

The agency has reviewed the data and concludes that they are insufficient to support the antitussive effectiveness of menthol in lozenge or compressed tablet dosage forms at doses of less than 5 mg. Study CRD 73–8 (Ref. 2) was a single-blind, crossover, induced-cough study involving 16 normal adult subjects. The study compared the antitussive effectiveness of lozenges containing 1 mg menthol, citric acid, and lemon flavor in a candy base with a control lozenge of the candy base (containing FD & C Yellow No. 5) without menthol, citric acid, or lemon flavor. Test subjects were given six citric acid aerosol challenges over a 1-hour period at 10-minute intervals after a lozenge had completely dissolved in the subject's mouth. The agency agrees with the comment that in this study citric acid can be considered an inactive ingredient. However, the comment's statistical analysis of the data showed that the menthol lozenge had a significantly greater reduction in coughs than the control lozenge for only two of the six citric acid aerosol challenges (p

< 0.05). In addition, the control lozenge significantly reduced cough counts when compared to baseline cough counts for three of the six citric acid aerosol challenges. The comment stated that a three-way analysis of variance indicated that the menthol lozenge treatment produced a larger overall mean reduction in coughs that was significantly different from the control lozenge ($p < 0.005$). The Panel reviewed this study along with several other induced-cough studies and concluded that none of the studies provided sufficient data to classify menthol as an effective antitussive (41 FR 38350 to 38351). In addition, the Panel determined that induced-cough studies of this kind are not adequate alone to demonstrate the effectiveness of an antitussive ingredient. The agency concurs. Therefore, study CRD 73–8 is inadequate to demonstrate the effectiveness of menthol in a lozenge or compressed tablet at doses of less than 5 mg.

Study CRD 81–10 (Ref. 1) was a single-blind, 3-day crossover study involving 48 patients (age 18 to 66) with chronic cough due to stable bronchopulmonary disease. The study compared the antitussive effectiveness of lozenges containing 3 mg menthol in a candy base, a control lozenge of the candy base without menthol, and a lactose capsule placebo. Coughs and cough components were recorded on tape recorders on three consecutive mornings and afternoons. Baseline cough counts were recorded for 1½ hours each morning and afternoon before medication was given. Medication was then given at hourly intervals for three doses and coughs were recorded for an hour after each dose. On the first day of the study, all patients were given a lactose capsule placebo for each dose. On days two and three, according to a randomized schedule, patients also were given either a lozenge containing 3 mg menthol in a candy base or a control lozenge of the candy base without menthol.

The agency's statistical analysis of the raw data for study CRD 81–10 shows some discrepancies in p-values between those reported by the comment and those calculated by the agency, using the same statistical procedure, i.e., the nonparametric crossover model developed by Koch (Ref. 3). The agency found significant differences between the menthol lozenge and the control lozenge at only 2 out of 14 cough-counting time periods for cough counts and only 1 out of 14 cough-counting time periods for cough component counts in contrast to the comment's statistical analysis that found significant differences between the menthol lozenge and the control lozenge at 3 out of 14 cough-counting time periods for cough counts and 2 out of 14 cough-counting time periods for cough component counts.

The apparent discrepancies may be due to differences in data analysis. While the agency applied Koch's procedure on the actual change in cough and cough component counts from the morning baseline counts to the counts following medication, the comment may have used a logarithmic transformation of the cough and cough component data. The agency believes that the data on the actual change in cough and cough component counts is easier to interpret than those based on a logarithmic scale. Further, because a nonparametric procedure was used to evaluate the data, there is no clear rationale for using a logarithmic transformation of the data for the analysis. In addition, the data showed that, regardless of whether the patients were using lozenges containing 3 mg menthol in a candy base, a control lozenge of the candy base without menthol, or a lactose capsule placebo, patients generally obtained a reduction in both cough counts and cough components during each cough-counting time period and obtained greater reductions in cough counts and cough components in the afternoon than in the morning. Consequently, this study is insufficient to support the antitussive effectiveness of a 3-mg dose of menthol in lozenges or compressed tablets.

The agency concludes that the studies above are inadequate to support the antitussive effectiveness of dosages of less than 5 mg for menthol in lozenges or compressed tablets and is not including dosages less than 5 mg in this final monograph.

The agency's comments and evaluations of the data are on file in the Dockets Management Branch (Ref. 4).

References

(1) Finkel, S., and S. Zuckerman, "Cough Drops" (Study CRD No. 81–10), draft of unpublished study, Comment No. C00193 and Report No. RPT004, Docket No. 76N–052T, Dockets Management Branch.

(2) Packman E.W., "Vicks Cough Drops," (Study CRD No. 73–8), draft of unpublished study, OTC Volume 040257.

(3) Koch, G.G., "Note: The Use of Non-Parametric Methods in the Statistical Analysis of the Two-Period Change-Over Design," *Biometrics*, 28(2):577–584, 1972.

(4) Letter from W.E. Gilbertson, FDA, to E.J. Hanus, Richardson-Vicks, Inc., coded LET092, Docket No. 76N–052T, Dockets Management Branch.

8. Referring to the agency's discussion on benzonatate at 48 FR 48591, one comment expressed concern that the statement "The drug should be marketed in an appropriate dosage form that does not release it into the oral cavity * * *." could be interpreted too restrictively. The comment suggested that the standard for determining if a dosage form is suitable should be whether the quantity of benzonatate released in the oral cavity may cause significant anesthesia, not whether any benzonatate is released in the oral cavity. The comment stated that this dosage form concern should not justify depriving the consumer of the availability of an appropriately formulated liquid dosage form of benzonatate, noting that market research data have established that the consumer prefers a liquid dosage form of antitussive agents over other available dosage forms.

The agency has determined that benzonatate will be available by prescription only, and therefore benzonatate is not included in this final monograph. (See comment 2 above.) Any new dosage form for benzonatate must be the subject of an NDA or a supplemental NDA.

9. One comment requested that the directions for use for OTC oral antitussive drug products proposed in the tentative final monograph be modified to improve: (1) The OTC dosage schedules for adults and for children 2 to 12 years of age and (2) the professional dosage directions for children under 2 years of age. The comment specifically addressed the agency's proposed dosage schedule in § 341.74(d)(1)(iv) for dextromethorphan and dextromethorphan hydrobromide and recommended that the dosage schedules for children under the age of 12 have a greater subdivision of age ranges than the dosage schedules proposed in the tentative final monograph. For children under 12 years, the comment recommended eight weight-based and age-related dosage ranges, with both age and weight ranges specified in the labeling, to replace the agency's two proposed age-based ranges in the dosage schedule for dextromethorphan. In addition, the comment recommended that the dosage range for adults and children over 12 years of age be changed from the agency's proposed 10 to 20 mg every 4 hours or 30 mg every 6 to 8 hours, to 20 to 30 mg every 4 to 6 hours. The comment submitted a report and literature references in support of a safe and effective dose range of 0.3 to 0.5 milligram per kilogram (mg/kg) for dextromethorphan and in support of weight-based, age-related dosage

schedules for children under 12 years of age in general (Ref. 1).

The comment contended that its recommended dosage schedule provides the following improvements over the agency's proposed dosage schedule: (1) It consolidates dosages for adults and for children under 12 years of age to a single 4- to 6-hour schedule that brings the dosage within the effective mg/kg dosage range; (2) it provides more age subdivisions for children under 12 years of age to assure more consistent dosage in a particular dosage range; (3) it provides a weight-based dosage schedule for children 2 to under 12 years of age that supplements the age-based dosage schedule; and (4) it provides an age- and weight-based dosage schedule for children under 2 years of age for use by health care professionals.

The comment explained that age-based dosage schedules with wide age ranges are less sensitive to changes and to differences in growth rate than are weight-based schedules. For this reason, dosage schedules that are based on weight, or that are age-related but closely tied to weight, are considered by the professional community to be more accurate for calculating pediatric drug dosages and are commonly used by physicians. In addition, in a report on OTC internal analgesic, antipyretic, and antirheumatic drug products published in the **Federal Register** of July 8, 1977 (42 FR 35346), FDA's Advisory Review Panel on OTC Internal Analgesic and Antirheumatic Drug Products (Internal Analgesic Panel) recommended a pediatric dosage schedule for internal analgesics with six age intervals between the ages of 2 to 12 years. These dosing age intervals for internal analgesics were based on pharmacokinetic and clinical data and were designed to provide a more accurate dosage schedule for children that is consistent with weight and growth parameters for this age group. The comment noted that OTC antitussives and internal analgesics are often combined and requested that the agency adopt a children's dosage schedule for antitussives that is similar to and consistent with the dosage schedule for internal analgesics.

Another comment pointed out that although the Internal Analgesic Panel recognized that antitussive/analgesic combination drug products are rational therapy for concurrent symptoms (42 FR 35493), the dosage range proposed by the agency in § 341.74(d)(1)(iv) for dextromethorphan for children 2 to under 12 years of age is incompatible with the pediatric dosage schedule proposed by the Internal Analgesic Panel for aspirin and acetaminophen. The comment argued that the Internal Analgesic Panel's recommended limitation of the maximum daily pediatric doses of aspirin or acetaminophen to no more than 5 daily doses would preclude a combination drug product containing an internal analgesic ingredient and an antitussive ingredient from providing the maximum permitted daily dose of dextromethorphan, and thereby deprive the child of maximum antitussive benefit. The comment presented the following example: a liquid antitussive/analgesic drug product for use by children 2 to under 11 years of age could be given no more than 5 times a day thus delivering a maximum of 50 mg dextromethorphan. Because the permitted maximum daily dose of dextromethorphan is 60 mg, the child would be "deprived" of an additional 10 mg dextromethorphan.

The comment maintained that dextromethorphan has a wide margin of safety. Quoting the Cough-Cold Panel's report and the agency's tentative final monograph, the comment stated that "there have been no fatalities 'even with doses in excess of 100 times the normal adult dose' " (41 FR 38340) and "because of its low order of toxicity, dextromethorphan is probably the safest antitussive presently available" (48 FR 48581). The comment argued that it is both safe and sound therapy to permit the total daily amount of dextromethorphan proposed for children to be administered in 5 rather than 6 does. Therefore, the comment urged that the limitations on the amount of dextromethorphan in a single dose be increased to permit the pediatric patient to obtain the maximum potential 24-hour benefit of both the analgesic ingredient and the dextromethorphan.

The agency concludes that the data submitted by the comment (Ref. 1) do not support changing the adult dosage schedule for dextromethorphan from 10 to 20 mg every 4 hours, or 30 mg every 6 to 8 hours, to 20 to 30 mg every 4 to 6 hours as requested by the comment. The comment itself notes that, although results of clinical trials show that dextromethorphan is superior to a placebo, there is no uniformity among trials with regard to the dosage at which statistical significance was achieved. It cited studies demonstrating that the minimum effective dose ranges from 5 mg to 30 mg and, as shown in multiple dosing trials, from 6 mg three times daily to 20 mg every 4 hours for two doses, and it stated that the discrepancies among these results could be attributed to study design, end point sensitivity, and inter- and intra-patient variability. Additionally, the comment reanalyzed the data from a published study (Ref. 2) to support its contention that 0.3 to 0.5 mg/kg is the optimum dose for dextromethorphan. The agency questions the validity of using the reanalyzed data to establish an effective dose range for dextromethorphan. The study compared the efficacy of 20 mg dextromethorphan to an active placebo (codeine) and a placebo control, and its results indicated that 20 mg of dextromethorphan is equivalent to 20 mg of codeine and both are superior to placebo. The comment reanalyzed the data by dividing the predetermined 20 mg dextromethorphan dose by the lowest and highest patient weight to obtain an effective dosage range of 0.25 to 0.43 mg/kg (revised by the comment to 0.3 to 0.5 mg/kg). However, because no dose other than 20 mg was used, no conclusions other than the effectiveness of the 20 mg dose can be drawn. For example, if a 15 mg dose had been used and had been equally effective, then the calculated effective range of dextromethorphan would have been 0.1 to 0.32 mg/kg. Furthermore, the subject population of this study is so atypical (16 adult patients with chronic cough due to pulmonary tuberculosis, bronchial carcinoma, or obstructive lung disease) that the mg/kg dosage recommendation obtained from this population should not be extrapolated to a normal population.

The dextromethorphan dosage schedule for adults and children over 12 years of age allows for flexibility in dosages so that manufacturers can write directions for combination products that are applicable to all ingredients in the combination. Therefore, in the absence of data to demonstrate that these proposed dosages are not effective or that alternative doses are superior to the proposed doses, the agency is including in this final monograph the dextromethorphan dosage range it proposed for adults and children over 12 years of age in the tentative final monograph for OTC antitussive drug products.

Several comments (Ref. 3) submitted in response to the tentative final monograph for OTC antihistamine drug products published in the **Federal Register** of January 15, 1985 (50 FR 2200) requested that the agency revise pediatric dosages for OTC drug product categories such as internal analgesics, antitussives, nasal decongestants, and antihistamines to provide consistency among these rulemakings. The comments believed that the dosage schedules should provide: (1) Relatively

fixed dosage forms, (2) sufficient flexibility in the dosage schedules by basing the schedules on weight and age, (3) the ability to correlate dosing with a greater subdivision of standard age breaks, and (4) ease of physician and consumer use.

Because several OTC drug rulemakings could be affected if pediatric dosages are revised, the agency has decided to publish a separate document discussing pediatric dosages for OTC drug products and to defer all issues regarding pediatric dosages to that document. Therefore, the portions of this comment regarding a weight-based, age-related pediatric dosage schedule for dextromethorphan and the pediatric dosage for dextromethorphan when combined with an internal analgesic will be addressed in a future issue of the **Federal Register**. Thus, the dosage schedule for dextromethorphan proposed in the tentative final monograph is included in this final monograph. Should pediatric dosage schedules, in general, be revised in the future, this monograph will be amended accordingly.

References

(1) Comment No. C00197 and Correction No. CR0005, Docket No. 76N–052T, Dockets Management Branch.

(2) Matthys, H., B. Bleicher, and U. Bleicher, "Dextromethorphan and codeine: objective assessment of antitussive activity in patients with chronic cough," *Journal of Internal Medicine Research*, 11:92–100, 1983.

(3) Comment Nos. C00201, C00208, C00210, and C00211, Docket No. 76N–052H, Dockets Management Branch.

10. One comment requested clarification of the professional labeling section (§ 341.90(p)(3), redesignated as §341.90(c)(3)) concerning the distribution of a calibrated dispensing device to ensure accurate dosing when OTC drug products containing codeine are used in children 2 to under 6 years of age (48 FR 48595). The comment stated that it assumed "that the scope and intent of [this] section is limited to professional labeling instructions which the dispensing professional is to provide (along with the calibrated device) to a responsible adult at the time the product is delivered for use." The comment stated that it also assumed that it is not the intent of the proposed labeling to require marketers of codeine preparations to include calibrated dispensing devices with each package of their products. The comment stated that the use of codeine products in children under 6 years of age constitutes a small percentage of the total use of these products and argued that a requirement to include a dispensing device with all codeine products would unnecessarily increase the cost of these drug products to all consumers. The comment stated that calibrated dispensing devices are commercially available to pharmacists and other health care professionals. The comment suggested that the professional labeling be amended to require that health care professionals who dispense codeine preparations for use by children under age 6 provide the calibrated dispensing devices at the time the drug is dispensed. The comment also requested that § 341.90(p)(3) be amended to clarify that FDA intends for marketers of codeine preparations to include professional labeling instructions with their products that the dispensing professional must provide when use of the product will be by children under 6.

The comment correctly states that the agency did not intend that dispensing devices calibrated by age or weight for use in children 2 to under 6 years of age be included in each OTC package of codeine drug products. The inclusion of such devices could imply that OTC use of these products in children under 6 years of age is appropriate without the supervision of a physician. However, the comment erred in assuming that FDA intends for marketers of codeine preparations to include labeling instructions with their products that the dispensing professional "must" provide when the product will be used by children under 6 years of age. The agency intends for marketers of codeine preparations to provide to health professionals (e.g., doctors and pharmacists) the specific dosage information on codeine preparations provided in § 341.90(p)(1), redesignated as § 341.90(c)(1). This information in § 341.90(c)(1) can be provided in a written form that the health care professional can give to the child's parent, or the health care professional can provide the information orally to the parent. Such information should be provided to the consumer only when a physician has recommended the use of the product for a child 2 to under 6 years of age.

Once the dosing information has been provided to a parent, the agency intends for the health care professional either to provide a dispensing device directly to the parent or to instruct the parent to obtain a dispensing device to administer the product. The agency emphasizes that if a manufacturer promotes to health care professionals the use of its codeine antitussive drug product in the 2 to under 6 years of age population, the manufacturer must relate the dosages specified in § 341.90(c)(1) of this monography either to a dispensing device specifically designed for use with its product, or to the use of commercially available calibrated dispensing devices, to ensure that dosages for children 2 to under 6 years of age are measured accurately.

In order to make this intent clear, the agency is revising § 341.90(p)(2), redesignated as § 341.90(c)(2), to read: "Parents should be instructed to obtain and use a calibrated measuring device for administering the drug to the child, to use extreme care in measuring the dosage, and not to exceed the recommended daily dosage" and is adding to § 341.90(p)(1), redesignated as § 341.90(c)(1), the statement "the manufacturer must relate these dosages for its specific product to the use of the calibrated measuring device discussed in paragraph (3) of this section." Also, § 341.90(p)(3), redesignated as § 341.90(c)(3), is revised to read "A dispensing device (such as a dropper calibrated for age or weight) should be dispensed along with the product when it is intended for use in children 2 to under 6 years of age to prevent possible overdose due to improper measuring of the dose."

The agency is also expanding the portion of the required OTC labeling directions in § 341.74(d)(1)(ii) for the antitussive use of codeine preparations concerning children under 6 years of age to read: "Children under 6 years of age: Consult a doctor. A special measuring device should be used to give an accurate dose of this product to children under 6 years of age. Giving a higher dose than recommended by a doctor could result in serious side effects for your child." The agency believes that the additional information will ensure that parents will obtain and use a calibrated measuring device when codeine products are recommended for use in the 2– to under 6–year age group, just as calibrated measuring devices are used with other products, e.g., prescription liquid antibiotic products, intended for use in this age group.

E. Comments on OTC Antitussive Labeling

11. One comment noted its continuing position that FDA cannot legally and should not, as a matter of policy, prescribe exclusive lists of terms from which indications for use for OTC drugs must be drawn, and should not prohibit alternative OTC labeling terminology to describe indications which are truthful, not misleading, and intelligible to the consumer. This comment's views were presented in oral and written testimony submitted to FDA in connection with the September 29, 1982, FDA hearing on the exclusivity policy.

The comment stated that the agency's proposed "other allowable statements" are in fact indications that are not required. The comment contended that these allowable statements are beneficial to consumers in choosing a product appropriate for their symptoms and should be permitted in direct conjunction with approved labeling indications.

A second comment believed that proposed § 341.74 would unnecessarily limit the truthful and not misleading language permitted in labeling for antitussive drug products whether the antitussive is used alone or in combination with a second Category I ingredient from a second pharmacological class. This comment added that the agency's effort to implement the exclusivity policy, by providing in § 341.74(b)(2) for optional alternative statements, does not adequately address the legal problems associated with the exclusivity policy inasmuch as there would remain a preclusion against truthful and not misleading statements. The comment, therefore, suggested that § 341.74 be revised to indicate that the alternative statements set forth in this section be considered to be examples of acceptable alternatives and not a legally binding exclusive list. The comment claimed that such a revision can be accomplished by amending the first paragraph of § 341.74(b)(2) to read:

"*Other Allowable Statements.* In addition to the required information identified in paragraph (b)(1) of this section, the labeling of the product may contain any of the following statements or any similar statement which is neither false nor misleading, provided such statements are neither placed in direct conjunction with information required to appear in the labeling nor occupy labeling space with greater prominence or conspicuousness than the required information."

A third comment stated that the labeling indications in the tentative final monograph are more restrictive than those recommended by the Panel because the indications are limited to the single phrase "temporarily alleviates * * * cough due to minor throat and bronchial irritation as may occur with * * the common cold * * * or inhaled irritants." Therefore, the comment urged that the "other allowable statements" in the tentative final monograph as well as other alternative language suggested by the comment be permitted for use under the heading "Indications" in place of or in addition to the statement above to allow more flexibility and consumer-oriented language in labeling. (See comment 13 below.)

In the **Federal Register** of May 1, 1986 (51 FR 16258), the agency published a final rule changing its labeling policy for stating the indications for use of OTC drug products. Under the final rule, the label and labeling of OTC drug products are required to contain in a prominent and conspicuous location, either (1) the specific wording on indications for use established under an OTC drug monograph, which may appear within a boxed area designated "APPROVED USES"; (2) other wording describing such indications for use that meets the statutory prohibitions against false or misleading labeling, which shall neither appear within a boxed area nor be designated "APPROVED USES"; or (3) the approved monograph language on indications, which may appear within a boxed area designated "APPROVED USES," plus alternative language describing indications for use that is not false or misleading, which shall appear elsewhere in the labeling. All required OTC drug labeling other than indications for use (e.g., statement of identity, warnings, and directions) must appear in the specific wording established under an OTC drug monograph.

In the tentative final monograph (48 FR 48593 to 48594), supplemental language relating to indications had been proposed and captioned as *Other Allowable Statements*. Under FDA's revised labeling policy (51 FR 16258), such statements are included at the tentative final stage as examples of other truthful and nonmisleading language that would be allowed elsewhere in the labeling. In accordance with the revised labeling policy, such statements would not be included in a final monograph. However, the agency has decided that, because these additional terms proposed in § 341.74(b)(2) in the tentative final monograph for antitussive drug products have been reviewed by FDA, they should be incorporated, wherever possible, in final OTC drug monographs under the heading "Indications" as part of the indications developed under that monograph. In this case, the agency has incorporated all of the "Other Allowable Statements" proposed in § 341.74(b)(2) of the tentative final monograph in the indications section in this final monograph. (See also comment 12 below).

12. Referring to the "other allowable statement" proposed for antitussives in § 341.74(b)(2)(v) of the tentative final monograph, "alleviates * * * cough * * * to help you get to sleep," one comment proposed that the following alternate phrases also be permitted to make this phrase more meaningful to consumers: "Alleviates * * * cough * * * to let you sleep," and "alleviates * * * cough * * * to let you rest."

The agency agrees that the two statements proposed by the comment (i.e., alleviates * * * cough * * * to let you sleep," and "alleviates * * * cough * * * to let you rest") are merely alternative ways of saying "alleviates * * * cough * * * to help you get to sleep" which appears in § 341.74(b)(2)(v) of the tentative final monograph and are truthful and not misleading statements. However, the agency prefers to use the word "help" instead of "let" for consistency with the previously proposed indication and with the indications used in the final rule for OTC nighttime sleep-aid drug products. Accordingly, the agency is revising the indication by adding the terms "to help you sleep" and "to help you rest" as follows: (Select one of the following: "Alleviates," "Controls," "Decreases," "Reduces," "Relieves," or "Suppresses") (select one of the following: "Cough," "the impulse to cough," or "your cough") "to help you" (select one of the following: "get to sleep," "sleep," or "rest") and is including the revised indication in § 341.74(b)(3)(v) of this final monograph. (See comment 11 above.)

13. Recognizing and appreciating the agency's effort to provide alternative wording in the indications statement set forth in § 341.74(b), one comment urged FDA to also recognize the use of phrases such as "occurring with" or "associated with" instead of "as may occur with." In addition, the comment believed that flexibility must be allowed in the expression of indications for antitussives because many products containing antitussive ingredients are combinations and thus label space is often limited. The comment maintained that the indications section should recognize not only alternative wording but also alternative indications and suggested the following example: "temporarily (followed by one of the permitted alternatives) cough due to minor throat and bronchial irritations/or cough due to minor bronchial irritation/or cough 'occurring'/'associated with the common cold' or 'a cold' or 'inhaled irritants.'"

The agency agrees with the comment that the phrases "occurring with," "associated with," or "as may occur with" may be used interchangeably. The agency also agrees with the comment that flexibility in the expression of antitussive indications is desirable.

Therefore, in this final monograph, the agency is revising the statement of indications in § 341.74(b) to include two indications as follows: (1) "Temporarily" (select one of the following: "alternatives," "calms," "controls," "decreases," "quiets," "reduces," "relieves," or "suppresses") "cough due to" (select one of the following: "minor bronchial irritation" or "minor throat and bronchial irritation") (select one of the following: "As may occur with," "associated with," or "occurring with") (select one of the following: "a cold" or "the common cold") or "inhaled irritants."

(2) "Temporarily," (select one of the following: "alleviates," "calms," "controls," "decreases," "quiets," "reduces," "relieves," or "suppresses") "cough" (select one of the following: "as may occur with," "associated with," or "occurring with") (select one of the following: "A cold," or "the common cold," or "inhaled irritants").

14. One comment objected to the "restrictive nature" of proposed § 341.74(a) in limiting statements of identity for cough medicines to "cough suppressant" or "antitussive (cough suppressant)." The comment urged FDA to allow manufacturers the alternative ways of describing the statement of identity that are set forth in the agency's regulations in 21 CFR 21.61, which require that the label include the established name of the drug, if any, followed by an accurate statement of the general pharmacologic category(ies) of the drug or the principal intended action(s) of the drug, and which provide that, if the drug is a combination that has no established name, the statement of identity may be a prominent and conspicuous statement of the general pharmacological action(s) of the combination or its principal intended action(s) in terms that are meaningful to laymen.

Although recognizing that the term "cough suppressant" is a valid statement of identity for antitussive drug products, the comment stated that an alternative statement such as "controls cough" is as accurate and meaningful a statement of the principal intended actions of these drugs. The comment further contended that the term "antitussive" is descriptive of the general pharmacological category and is equivalent to terms such as "decongestant," "analgesic," and "antihistamine," which are used as examples in § 201.61(b). The comment emphasized the importance of a concise and consistent statement of identity, particularly for drug ingredients used in combination drug products. The comment therefore requested that the proposed statement of identity in § 341.74(a) be amended to allow the term "antitussive" with or without the addition of the term "cough suppressant." The comment also suggested that the phrases "controls non-productive cough," "reduces dry, hacking cough," and "calms and controls dry coughing," etc., are appropriate statements of identity for combination drug products containing an antitussive agent and an expectorant active ingredient.

Although the term "antitussive" accurately describes the pharmacological category of such drugs, the agency believes, as discussed in the tentative final monograph on OTC antitussive drug products (48 FR 48591), that the term "cough suppressant" alone or in conjunction with the term "antitussive" will be better understood by consumers than the term "antitussive" alone. The agency believes that the statements of identity proposed in the tentative final monograph are concise, not confusing, and well recognized by the consumer, and the use of such terms is appropriate in the labeling of combination drug products containing an antitussive and other ingredients. In addition, whenever possible, the agency prefers to use the general pharmacologic category as the statement of identity because information on the principal intended action of the drug product is provided in the indications section of the label. In this case, the wording "controls cough," requested by the comment as a statement of identity, appears in the indications included in § 341.74(b). In instances where the term that describes the pharmacologic category is not appropriate as a statement of identity, the term for the principal intended action is used. For example, the statement of identity for an antihistamine used as an OTC nighttime sleep-aid is "nighttime sleep-aid." For these reasons, the agency has not included the comment's recommended change in the statement of identity. The option of using either "antitussive (cough suppressant)" or "cough suppressant" as the statement of identity, as proposed in the tentative final monograph, is included in this final monograph.

Regarding the comment's recommended statements of identity for a combination of an antitussive active ingredient and an expectorant active ingredient, the agency notes that, to minimize consumer confusion about the labeling of similar marketed products, the labeling of any combination product must contain the statement of identity that is designated in the monograph for each pharmacologic group in the combination product, e.g., "cough suppressant/expectorant." The phrases recommended by the comment, "controls non-productive cough," "reduces dry, hacking cough," and "calms and controls dry coughing," are not statements of identity but are descriptive phrases related to the indications of antitussive drug products. They may appear elsewhere in the labeling of an OTC antitussive drug product (but may not appear in any portion of the labeling required by the monograph and may not detract from such required information) provided they meet the provisions of section 502 of the act (21 U.S.C. 352) relating to misbranding.

15. One comment from a pediatrician stated that the tentative final monograph implies that children under 2 years of age may be most vulnerable to codeine and should not be given the drug; however, nowhere in the labeling for codeine is there a warning against use in children under 2 years of age. The comment emphasized that it is essential that the labeling state that codeine preparations are "totally unsuitable for infants under the age of 2," and added that the proposed statement "consult a doctor" is inadequate. The comment maintained that the vast majority of physicians, other than trained pediatricians, are not aware of the hazards of codeine, and that if a warning against the use of codeine in children under 2 years is not included in the labeling, there may be a continuance of annual deaths in infants due to codeine's respiratory depressant effects.

The agency agrees with the comment that codeine preparations can be hazardous when used in very young children. A review of adverse reactions reported to FDA from the years 1969 to June 1986 reveals eight cases of respiratory depression, apnea, coma, or death associated with the use of codeine-containing drug products in children ranging in age from 3 months to 2½ years (Ref. 1). The agency discussed that hazards of codeine in children in the tentative final monograph on OTC antitussive drug products and proposed that the label of codeine preparations for OTC use limit use to children 6 years of age and over (48 FR 48587). Thus, the label does not provide dosage information for children under 6 years, but states that a doctor must be consulted. The use of codeine in children 2 to under 6 years of age is limited to the supervision of a physician, and dosage information for this age

group is contained in the professional labeling section of the monograph (§ 341.90) (48 FR 48588 and 48595). However, no dosage information regarding the use of codeine in children under 2 years was included in § 341.90 in the tentative final monograph.

Professional labeling is provided to health professionals, but not to the general public. Because health professionals only will be provided with dosage instructions for the use of codeine in children under 6 years, the agency believes that a statement concerning use of codeine in children under 2 years of age should also be included under professional labeling in § 341.90. Such a statement will adequately warn health professionals about the hazards of codeine use in very young children. Therefore, the agency is including the following statement in § 341.90(c)(4): "Codeine is not recommended for use in children under 2 years of age. Children under 2 years may be more susceptible to the respiratory depressant effects of codeine, including respiratory arrest, coma, and death."

Reference

(1) Department of Health and Human Services, Food and Drug Administration, "Annual Adverse Reaction Summary Listings for the Years 1969 to June 1986," OTC Volume 04TFM, Docket No. 76N-052T, Dockets Management Branch.

16. One comment contended that the warning statements for antitussives proposed in § 341.74(c)(1) (i) and (ii) and (2) (i) and (ii) (48 FR 48594) are both difficult to understand and redundant. Referring to the limited labeling space available, the comment proposed that these warning statements could be shortened, as follows, to more simply and clearly communication the warning information to consumers, while still reflecting the valid medical warnings:

(1) For adults—"Do not take this product for chronic cough such as occurs with smoking, asthma, or emphysema. If cough persists for more than one week, or recurs frequently, or is accompanied by excessive mucus, high fever, rash or stubborn headache, consult a doctor."

(2) For children—"Do not administer this product for chronic cough such as occurs with asthma. If cough persists for more than one week, or recurs frequently, or is accompanied by excessive mucus, high fever, rash or stubborn headache, consult a doctor."

The agency believes that the warnings proposed in § 341.74(c)(1) (i) and (ii) and (2) (i) and (ii) are neither difficult to understand nor redundant. The proposed warnings provide necessary information for the consumer to safely and effectively use OTC antitussive drug products. Further, the labeling proposed for these products is not excessive, and there should be adequate labeling space to list the required information on the product label.

The agency has evaluated the revised warnings suggested by the comment and concludes that the warnings are not sufficiently clear and informative. For example, the warning proposed in § 341.74(c)(1)(i) states, "Do not take * * * for persistent or chronic cough * * * or if cough is accompanied by excessive phlegm (mucus) unless directed by a doctor." The revision moves the phrase "cough accompanied by excessive mucus" from the "do not take" restriction and includes it in the second sentence of the warning where there is no such restriction. Thus, this revision changes the intent of the warning and makes it inconsistent with the Panel's recommendations. The Panel discussed conditions in which there is an overproduction of secretions which accumulate in the airway and produce thick sputum (41 FR 38338). Because the suppression of cough by antitussives in such instances would impair clearing of the airway and could be harmful, the Panel recommended that antitussives not be used under such conditions, unless specifically directed by a doctor. The agency agrees with the Panel and believes that consumers should be warned against self-treatment of cough with an antitussive when cough is accompanied by excessive mucus; thus, the restrictive labeling "Do not take" is necessary.

The agency's proposed warning includes the term "phlegm (mucus)." The word "phlegm" is not included in the comment's revision. The agency believes that both terms should be included in the warning because consumers do not always use the terms interchangeably and both terms are helpful to make the warning clearer to consumers. The comment's revision also eliminates the word "persistent" from the first part of the warning. The agency believes that "persistent" should remain, in addition to "chronic," because the two words more broadly describe the type of cough for which OTC antitussives should not be used without consulting a doctor.

Additionally, the comment's revision "Do not take this product for chronic cough such as occurs with smoking, asthma, or emphysema" is a direct restriction against the use of antitussive drugs in persons with these conditions. However, the agency's version includes the phrase "unless directed by a doctor," thus informing persons with these conditions that OTC antitussives might be used under a doctor's supervision.

For the warning proposed in paragraph (ii), the comment's suggested revision eliminates entirely the sentence "A persistent cough may be a sign of a serious condition." The agency believes that this statement provides important information, helps to discourage self-treatment of a continuous, lingering cough with OTC antitussive drug products, and should be retained.

The proposed term "tends to recur" has a wider scope than "recurs frequently," the phrase suggested by the comment. The phrase "tends to recur" is broader because it encompasses coughs that may occur very frequently (e.g., every few days or weeks) to those that occur less often, but still on a relatively frequent basis (e.g., every 1 or 2 months). An individual with any type of cough that tends to recur, whether very frequently or less frequently, should consult a physician. Therefore, the agency is retaining the term "tends to recur." The agency also believes that the phrase "persistent headache" is more commonly used and will be better understood by consumers than the comment's suggested term "stubborn headache."

With regard to the warning for antitussives labeled for children under 12 years of age, the agency believes that although the comment's use of the word "administer" is correct, the word "give" is simpler, shorter, and more easily understood. Therefore, the word "give" is being used in the labeling.

For the reasons above, the comment's suggested revisions are not accepted, and the warnings for antitussives proposed in the tentative final monograph are being included in this final monograph.

17. One comment objected to the proposed elimination of the term "caution(s)" in the labeling of OTC drug products. The comment claimed that to the lay consumer there is a distinct difference between the term "warning(s)" and the term "caution(s)." The comment claimed that a warning precludes use of a product under certain conditions, whereas a caution does not preclude use, but may often alert the consumer to a potential problem, e.g., "Caution: If irritation develops discontinue use and consult a physician." Thus, the word "warning" is harsher than the word "caution." The comment asserted that a "caution" may also be used to add emphasis, e.g., "Caution: Use only as directed." The comment argued that it would undoubtedly dilute the impact of essential warning statements if

"cautions," which require the consumer to take certain precautions while using the product, were intermingled with "warnings," which signal that the product should not be used at all under specified circumstances. The comment emphasized that although both types of statements are usually used to call attention to danger, the distinction is important, particularly when products contain long lists of warnings. The comment added that because the same phrases may be warnings with regard to one class of products and merely cautions with regard to another, the flexibility of both terms is essential in order to prepare accurate and comprehensible labeling.

Section 502(f)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(f)(2)) states, in part, that any drug marketed OTC must bear in labeling "* * * such adequate warnings * * * as are necessary for the protection of users." Section 330.10(a)(4)(v) of the OTC drug regulations provides that labeling of OTC drug products should include "* * * warnings against unsafe use, side effects, and adverse reacations * * *."

The agency notes that historically there has not been consistent usage of the signal words "warning" and "caution" in OTC drug labeling. For example, in § § 369.20 and 369.21 (21 CFR 369.20 and 369.21), which list "warning" and "caution" statements for drugs, the signal words "warning" and "caution' are both used. In some instances, either of these signal words is used to convey the same or similar precautionary information.

FDA has considered which of these signal words would be most likely to attract consumers' attention to that information describing conditions under which the drug product should not be used or its use should be discontinued. The agency concludes that the signal word "warning" is more likely to flag potential dangers so that consumers will read the information being conveyed. Therefore, FDA has determined that the signal word "warning," rather than the word "caution," will be used routinely in OTC drug labeling that is intended to alert consumers to potential safety problems.

II. Summary of Significant Changes From the Proposed Rule

1. The agency has determined that benzonatate should not be available for OTC use because of the negative comments received, the possible hypersensitivity reactions to the drug, including potential anaphylactic reactions, and possible paralysis of the oropharyngeal area. Therefore, benzonatate is not included in this final monograph. (See comments 2 and 8 above.)

2. In order to allow for flexibility in the expression of antitussive indications, the agency is revising and expanding the statement of indications in § 341.74(b) to include two indications as follows: (1) "Temporarily" (select one of the following: "Alleviates," "calms," "controls," "decreases," "quiets," "reduces," "relieves," or "suppresses") "cough due to" (select one of the following: "minor bronchial irritation" or "minor throat and bronchial irritation") (select one of the following: "as may occur with," "associated with," or "occurring with,") (select one of the following: "a cold" or "the common cold") or "inhaled irritants."

(2) "Temporarily" (select one of the following: "alleviates," "calms," "controls," "decreases," "quiets," "reduces," "relieves," or "suppresses") "cough" (select one of the following: "as may occur with," "associated with," or "occurring with") (select one of the following: "a cold," "the common cold," or "inhaled irritants"). (See comment 13 above.)

3. The agency is not including proposed § 341.74(b)(2), *Other allowable statements*, in this final monograph but is revising and incorporating the statements proposed in that section of the tentative final monograph (except for the statements pertaining to benzonatate in § 341.74(b)(3)(vii)) in the indications section in this final monograph. (See comments 11 and 12 above.)

4. The panel recommended placing camphor and menthol for steam inhalation in Category III because there were insufficient data to demonstrate effectiveness. The agency has reviewed new data and determined that the clinical studies support the reclassification of the individual ingredients from nonmonograph to monograph status as OTC antitussives for steam inhalation. Because the agency agrees with the Panel's recommendation concerning the warning for using camphor and menthol in a steam vaporizer, the agency is including the statement, "For steam inhalation only. Do not take by mouth," in § 341.74(c)(5)(ii) in this final monograph. The agency is also including directions for use of camphor and menthol individually in a hot steam vaporizer in § § 341.74(d)(2) (iv) and (v) in this final monograph. In addition, the agency has revised the definition for *"Topical antitussive drug"* in § 341.3(k), redesignated as § 341.3(c), to include use of a steam vaporizer for camphor and menthol in this final monograph. (See comment 6 above.)

5. The agency has revised and combined several warnings in § 341.74(c) that were proposed as separate warnings for products labeled for use only in children under 12 years of age, for use only in adults, or for use in adults and children under 12 years of age. The agency has revised and combined these warnings for clarity and to eliminate unnecessary repetition of warnings in the monograph. This change in format has also resulted in deletion of the proposed section entitled *"For antitussive products labeled for both adults and children."*

The agency has removed the warning concerning persistent cough as the sign of a serious condition from sections with specific labeling only for adults or only for children under 12 years of age and specified this warning in § 341.74(c)(1) as a general warning required for all antitussive drug products. The agency has revised the heading in § 341.74(c) for warnings for antitussives labeled for adults to read *"For oral and topical antitussives labeled for adults or for adults and children under 12 years of age"* to clarify that the warning "Do not take this product for persistent or chronic cough such as occurs with smoking, asthma, or emphysema, or if cough is accompanied by excessive phlegm (mucus) unless directed by a doctor" is required for products labeled for both adults and children under 12 years of age as well as for adults only.

The agency has removed the warning concerning constipation for drug products containing codeine from sections that specify separate labeling for adults or for children under 12 years of age and specified this warning in § 341.74(c)(4)(i) as a general warning for all drug products containing codeine. To eliminate unnecessary repetition of information in the labeling of drug products containing codeine, the agency has revised and combined the warnings required for codeine products labeled for adults and children under 12 years of age that warn against use of such products in adults and children with a chronic pulmonary disease or shortness of breath or in children who are taking other drugs and included the revised warning in § 341.74(c)(4)(iv) of the monograph.

The agency has also deleted the warning "For external use only. Do not give by mouth or place in nostrils" for products containing camplor or menthol that was proposed for products labeled only for use in children under 12 years of age. The agency is requiring the warning "For external use only. Do not

take this by mouth or place in nostrils" that was proposed for products labeled only for adult use, for all products whether they are labeled only for adults, only for children under 12 years of age, or for adults and children under 12 years of age.

6. In order to assure that parents will obtain and use a calibrated measuring device when codeine products are used in children 2 to under 6 years of age, the agency is expanding that portion of § 341.74(d)(1)(ii) concerning children under 6 years of age to read: "Children under 6 years of age: Consult a doctor. A special measuring device should be used to give an accurate dose of this product to children under 6 years of age. Giving a higher dose than recommended by a doctor could result in serious side effects for your child." (See comment 10 above.)

7. In order to clarify the professional labeling for products containing codeine, the agency is revising § 341.90(p)(2), redesignated as § 341.90(c)(2), to read: "Parents should be instructed to obtain and use a calibrated measuring device for administering the drug to the child, to use extreme care in measuring the dosage, and not to exceed the recommended daily dosage" and is adding to § 341.90(p)(1), redesignated as § 341.90(c)(1), the statement "the manufacturer must relate these dosages for its specific product to the use of the calibrated measuring device discussed in paragraph (3) of this section." Also, § 341.90(p)(3), redesignated as § 341.90(c)(3), is revised to read "A dispensing device (such as a dropper calibrated for age and weight) should be dispensed along with the product when it is intended for use in children 2 to under 6 years of age to prevent possible overdose due to improper measuring of the dose." (See comment 10 above.) Furthermore, the agency is including a statement concerning the hazards of codeine use in children under 2 years of age under professional labeling in § 341.90(c)(4). (See comment 15 above.)

8. The agency is deleting the word "high" (in reference to fever) from the warning for antitussives proposed in § 341.74(c) (1)(ii) and (2)(ii) of the tentative final monograph. Fever can be defined as a body temperature above the normal temperature of 98.6 °F (37 °C). In the same or different disease states, however, fevers may vary significantly. Fever may be low grade, moderate, high, intermittent, or sustained. The particular characteristics of a fever depend on the disease state, and, in many cases, the stage of development of the disease. The word "high" has been deleted from the warning because the agency believes that it is important for the consumer to recognize the presence of fever regardless of whether the fever is high or low.

9. In order to clarify the dosage directions for dextromethorphan and dextromethorphan hydrobromide, the agency is adding the following statement to § 341.74(d)(1)(iii): The dosage is equivalent to dextromethorphan hydrobromide. The antitussive drug products containing dextromethorphan that were marketed at the time of the Panel's review contained the hydrobromide salt of this ingredient, and the dosages were based on this salt. The agency is unaware of any drug products that contained dextromethorphan at the time of the Panel's review. A compendial monograph for dextromethorphan did not become official until 1985 (Ref. 1).

Further, a sustained release drug product approved on October 8, 1982, under an NDA (Ref. 2) contained as its active ingredient dextromethorphan polistirex. The dosage for that product is equivalent to the dosage for dextromethorphan hydrobromide. To be consistent with the drug products reviewed by the Panel and approved by the agency under the NDA, the agency is clarifying that the dosages for drug products containing dextromethorphan be equivalent to the dosages for dextromethorphan hydrobromide.

References

(1) "The United States Pharmacopeia XXI—The National Formulary XVI," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 298–299, 1985.

(2) Letter from R. Temple, FDA, to L. Gundersen, Pennwalt Corporation, contained in OTC Volume 04TFM, Docket No. 76N–052T, Dockets Management Branch.

10. In a separate rulemaking, paragraph (b) of 21 CFR 1308.15 was redesignated as paragraph (c) (February 28, 1985; 50 FR 8104). Therefore, the agency has revised § 341.14(a)(2) by replacing the reference to paragraph (b) of § 1308.15 with a reference to paragraph (c) of § 1308.15.

11. The agency has redesignated § 341.3(j) as § 341.3(b) and § 341.90(o) as § 341.90(b).

III. The Agency's Final Conclusions on OTC Antitussive Drug Products

Based on the available evidence, the agency is issuing a final monograph establishing conditions under which OTC antitussive drug products are generally recognized as safe and effective and not misbranded. Specifically, the following ingredients are included in this final rule for OTC antitussive use: chlophedianol hydrochloride, codeine ingredients (codeine, codeine phosphate, and codeine sulfate used only in combination in accordance with §§ 329.20 (a), 341.40, and 1308.15(c)), dextromethorphan, dextromethorphan hydrobromide, camphor, and menthol. All other ingredients for OTC antitussive use in this rulemaking are considered nonmonograph ingredients, i.e., beechwood creosite, benzonatate, camphor lozenges, caramiphen edisylate, carbetapentane citrate, cod liver oil, diphenhydramine hydrochloride, elm bark, ethylmorphine hydrochloride, eucalyptol/eucalyptus oil, horehound, hydrocodone bitartrate, menthol lozenges (less than 5 mg and greater than 10 mg), menthol mouthwash, noscapine, noscapine hydrochloride, thymol, and turpentine oil. Any drug product marketed for use as an OTC antitussive drug product that is not in conformance with the monograph (21 CFR Part 341) will be considered a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) and misbranded under section 502(a) of the act (21 U.S.C. 352(a)) and may not be marketed for this use unless it is the subject of an approved application.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (48 FR 48576). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that not one of these rules, including this final rule for OTC antitussive drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular

rulemaking for OTC antitussive drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

The agency is removing portions of § 369.20, § 369.21, and the exemption for certain drugs limited by NDAs to prescription sale in § 310.201(a)(14) applicable to dextromethorphan hydrobromide because these portions of those regulations are superseded by the requirements of the antitussive final monograph (Part 341). The items being removed include § 310.201(a)(14), the reference to paragraph (14) of § 310.201(a) in the entry for " 'COUGH-DUE-TO-COLD' PREPARATIONS" in § 369.20, and the term "DEXTROMETHORPHAN HYDROBROMIDE" as well as the reference to paragraph (14) of § 310.201(a) from the entry " 'COUGH-DUE-TO-COLD' PREPARATIONS (DEXTROMETHORPHAN HYDROBROMIDE AND CARBETAPENTANE CITRATE)" and by removing the entry "DEXTROMETHORPHAN HYDROBROMIDE PREPARATIONS" in § 369.21.

List of Subjects

21 CFR Part 310

New drugs, Prescription exemption.

21 CFR Part 341

Labeling, Over-the-counter drugs, Bronchodilator drug products.

21 CFR Part 369

OTC drugs, Warning and caution statements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 310—NEW DRUGS

1. The authority citation for 21 CFR Part 310 is revised to read as follows:

Authority: Secs. 502, 503, 505, 701, 52 Stat. 1051, 1052, 1053, 1055 as amended (21 U.S.C. 352, 353, 355, 371); 5 U.S.C. 553; 21 CFR 5.10 and 5.11.

§ 310.201 [Amended]

2. In Subpart C, § 310.201 is amended by removing paragraph (a)(14) and reserving it for future use.

PART 341—COLD, COUGH, ALLERGY, BRONCHODILATOR, AND ANTIASTHMATIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

3. The authority citation for 21 CFR Part 341 (established in the **Federal Register** of October 2, 1986; 51 FR 35326) is revised to read as follows:

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.10 and 5.11.

4. In Subpart A, § 341.3 is amended by adding paragraphs (b) and (c), to read as follows:

§ 341.3 Definitions.

* * * * *

(b) *Oral antitussive drug.* A drug that is taken by mouth and acts systemically to relieve cough.

(c) *Topical antitussive drug.* A drug that relieves cough when inhaled after being applied topically to the throat or chest in the form of an ointment or from a steam vaporizer, or when dissolved in the mouth in the form of a lozenge or compressed tablet.

5. In Subpart B, § 341.14 is added, to read as follows:

§ 341.14 Antitussive active ingredients.

The active ingredients of the product consist of any of the following when used within the dosage limits and in the dosage forms established for each ingredient in § 341.74(d):

(a) *Oral antitussives.* (1) Chlophedianol hydrochloride.

(2) *Codeine ingredients.* The following ingredients may be used only in combination in accordance with §§ 329.20(a) and 341.40 and 21 CFR 1308.15(c).

(i) Codeine.

(ii) Codeine phosphate.

(iii) Codeine sulfate.

(3) Dextromethorphan.

(4) Dextromethorphan hydrobromide.

(b) *Topical antitussives.*

(1) Camphor.

(2) Menthol.

6. In Subpart C, § 341.74 is added, to read as follows:

§ 341.74 Labeling of antitussive drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "cough suppressant" or an "antitussive (cough suppressant)."

(b) *Indications.* The labeling of the product states, under the heading "Indications," any of the phrases listed in this paragraph (b), as appropriate. Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed in this paragraph, may also be used, as provided in § 330.1(c)(2), subject to the provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(1) "Temporarily" (select one of the following: "alleviates," "calms," "controls," "decreases," "quiets," "reduces," "relieves," or "suppresses") "cough due to" (select one of the following: "minor bronchial irritation" or "minor throat and bronchial irritation") (select one of the following: "as may occur with," "associated with," or "occurring with") (select one of the following: "A cold" or "the common cold") "or inhaled irritants."

(2) "Temporarily" (select one of the following: "alleviates," "calms," "controls," "decreases," "quiets," "reduces," "relieves," or "suppresses") "cough" (select one of the following: "as may occur with," "associated with," or "occurring with") (select one of the following: "A cold," "the common cold," or "inhaled irritants").

(3) In addition to the required information identified in paragraphs (b)(1) and (2) of this section, the labeling of the product may contain any (one or more) of the following statements:

(i) "Cough suppressant which temporarily" (select one of the following: "Alleviates," "controls," "decreases," "reduces," "relieves," or "suppresses") "the impulse to cough."

(ii) "Temporarily helps you cough less."

(iii) "Temporarily helps to" (select one of the following: "Alleviate," "control," "decrease," "reduce," "relieve," or "suppress") "the cough reflex that causes coughing."

(iv) "Temporarily" (select one of the following: "Alleviates," "controls," "decreases," "reduces," "relieves," or "suppresses") "the intensity of coughing."

(v) (Select one of the following: "Alleviates," "Controls," "Decreases," "Reduces," "Relieves," or "Suppresses") (select one of the following: "Cough," "the impulse to cough," or "your cough") "to help you" (select one of the following: "Get to sleep," "sleep," or "rest").

(vi) *For products containing chlophedianol hydrochloride, codeine ingredients, dextromethorphan, or dextromethorphan hydrobromide identified in § 341.14(a) (1), (2), (3), and*

(4). "Calms the cough control center and relieves coughing."

(vii) *For products containing chlophedianol hydrochloride, dextromethorphan, dextromethorphan hydrobromide, camphor, or menthol identified in § 341.14(a) (1), (3), (4) and (b) (1) and (2).* (*a*) "Nonnarcotic cough suppressant for the temporary" (select one of the following: "alleviation," "control," "decrease," "reduction," "relief," or "suppression") "of cough."

(*b*) (Select one of the following: "Alleviates," "Controls," "Decreases," "Reduces," "Relieves," or "Suppresses") "cough impulses without narcotics."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) *For oral and topical antitussives.* "A persistent cough may be a sign of a serious condition. If cough persists for more than 1 week, tends to recur, or is accompanied by fever, rash, or persistent headache, consult a doctor."

(2) *For oral and topical antitussives labeled for adults or for adults and children under 12 years of age.* "Do not take this product for persistent or chronic cough such as occurs with smoking, asthma, emphysema, or if cough is accompanied by excessive phlegm (mucus) unless directed by a doctor."

(3) *For oral and topical antitussives labeled only for children under 12 years of age.* "Do not give this product for persistent or chronic cough such as occurs with asthma or if cough is accompanied by excessive phlegm (mucus) unless directed by a doctor."

(4) *Oral antitussives*—(i) *For products containing codeine ingredients identified in § 341.14(a)(2).* "May cause or aggravate constipation."

(ii) *For products containing codeine ingredients identified in § 341.14(a)(2) when labeled only for adults.* "Do not take this product if you have a chronic pulmonary disease or shortness of breath unless directed by a doctor."

(iii) *For products containing codeine ingredients identified in § 341.14(a)(2) when labeled only for children under 12 years of age.* "Do not give this product to children who have a chronic pulmonary disease, shortness of breath, or who are taking other drugs unless directed by a doctor."

(v) *For products containing codeine ingredients identified in § 341.14(a)(2) when labeled for use in adults and children under 12 years of age.* "Adults and children who have a chronic pulmonary disease or shortness of breath, or children who are taking other drugs, should not take this product unless directed by a doctor."

(5) *Topical antitussives*—(i) *For products containing camphor or menthol identified in § 341.14(b) (1) and (2) in a suitable ointment vehicle.* "For external use only. Do not take by mouth or place in nostrils."

(ii) *For products containing camphor or menthol identified in § 341.14(b) (1) and (2) for steam inhalation use.* "For steam inhalation only. Do not take by mouth."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) *Oral antitussives*—(i) *For products containing chlophedianol hydrochloride identified in § 341.14(a)(1).* Adults: oral dosage is 25 milligrams every 6 to 8 hours, not to exceed 100 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: Oral dosage is 12.5 milligrams every 6 to 8 hours, not to exceed 50 milligrams in 24 hours, or as directed by a doctor. Children under 6 years of age: consult a doctor.

(ii) *For products containing codeine ingredients identified in § 341.14(a)(2).* Adults: Oral dosage is 10 to 20 milligrams every 4 to 6 hours, not to exceed 120 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: Oral dosage is 5 to 10 milligrams every 4 to 6 hours, not to exceed 60 milligrams in 24 hours, or as directed by a doctor. Children under 6 years of age: Consult a doctor. A special measuring device should be used to give an accurate dose of this product to children under 6 years of age. Giving a higher dose than recommended by a doctor could result in serious side effects for your child.

(iii) *For products containing dextromethorphan or dextromethorphan hydrobromide identified in § 341.14(a) (3) and (4).* The dosage is equivalent to dextromethorphan hydrobromide. Adults: Oral dosage is 10 to 20 milligrams every 4 hours or 30 milligrams every 6 to 8 hours, not to exceed 120 milligrams in 24 hours, or as directed by a doctor. Children 6 to under 12 years of age: Oral dosage is 5 to 10 milligrams every 4 hours or 15 milligrams every 6 to 8 hours, not to exceed 60 milligrams in 24 hours, or as directed by a doctor. Children 2 to under 6 years of age: Oral dosage is 2.5 to 5 milligrams every 4 hours or 7.5 milligrams every 6 to 8 hours, not to exceed 30 milligrams in 24 hours, or as directed by a doctor. Children under 2 years of age: consult a doctor.

(2) *Topical antitussives*—(i) *For products containing camphor identified in § 341.14(b)(1) in a suitable ointment vehicle.* The product contains 4.7 to 5.3 percent camphor. Adults and children 2 to under 12 years of age: Rub on the throat and chest as a thick layer. The area of application may be covered with a warm, dry cloth if desired. However, clothing should be left loose about the throat and chest to help the vapors rise to reach the nose and mouth. Applications may be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

(ii) *For products containing menthol identified in § 341.14(b)(2) in a suitable ointment vehicle.* The product contains 2.6 to 2.8 percent menthol. Adults and children 2 to under 12 years of age: Rub on the throat and chest as a thick layer. The area of application may be covered with a warm, dry cloth if desired. However, clothing should be left loose about the throat and chest to help the vapors rise to reach the nose and mouth. Applications may be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

(iii) *For products containing menthol identified in § 341.14(b)(2) in a lozenge or compressed tablet.* The product contains 5 to 10 milligrams menthol. Adults and children 2 to under 12 years of age: Allow (lozenge or compressed tablet) to dissolve slowly in the mouth. May be repeated every hour as needed or as directed by a doctor. Children under 2 years of age: consult a doctor.

(iv) *For products containing camphor identified in § 341.14(b)(1) for steam inhalation use.* The product contains 6.2 percent camphor. Adults and children 2 to under 12 years of age: Add 1 tablespoonful of solution, for each quart of water, directly to the water in a hot steam vaporizer, bowl, or wash basin; or add 1½ teaspoonsful of solution, for each pint of water, to an open container of boiling water. Breathe in the medicated vapors. May be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

(v) *For products containing menthol identified in § 341.14(b)(2) for steam inhalation use.* The product contains 3.2 percent menthol. Adults and children 2 to under 12 years of age: Add 1 tablespoonful of solution, for each quart of water, directly to the water in a hot steam vaporizer, bowl, or wash basin; or add 1½ teaspoonsful of solution, for each pint of water, to an open container of boiling water. Breathe in the medicated vapors. May be repeated up to three times daily or as directed by a doctor. Children under 2 years of age: consult a doctor.

(e) The word "physician" may be substituted for the word "doctor" in any of the labeling statements in this section.

7. In Subpart C, § 341.90 is amended by adding paragraphs (b) and (c), to read as follows:

§ 341.90 Professional labeling.

* * * * *

(b) *For products containing chlophedianol hydrochloride identified in 341.14(a)(1).* Children 2 to under 6 years of age: oral dosage is 12.5 milligrams every 6 to 8 hours, not to exceed 50 milligrams in 24 hours.

(c) *For products containing codeine ingredients identified in § 341.14(a)(2).* (1) Children 2 to under 6 years of age: Oral dosage is 1 milligram per kilogram body weight per day administered in four equal divided doses. The average body weight for each age may also be used to determine dosage as follows: For children 2 years of age (average body weight, 12 kilograms), the oral dosage is 3 milligrams every 4 to 6 hours, not to exceed 12 milligrams in 24 hours; for children 3 years of age (average body weight, 14 kilograms), the oral dosage is 3.5 milligrams every 4 to 6 hours, not to exceed 14 milligrams in 24 hours; for children 4 years of age (average body weight, 16 kilograms), the oral dosage is 4 milligrams every 4 to 6 hours, not to exceed 16 milligrams in 24 hours: for children 5 years of age (average body weight, 18 kilograms), the oral dosage is 4.5 milligrams every 4 to 6 hours, not to exceed 18 milligrams in 24 hours. The manufacturer must relate these dosages for its specific product dosages for its specific product to the use of the calibrated measuring device discussed in paragraph (c)(3) of this section. If age is used to determine the dose, the directions must include instructions to reduce the dose for low-weight children.

(2) Parents should be instructed to obtain and use a calibrated measuring device for administering the drug to the child, to use extreme care in measuring the dosage, and not exceed the recommended daily dosage.

(3) A dispensing device (such as a dropper calibrated for age or weight) should be dispensed along with the product when it is intended for use in children 2 to under 6 years of age to prevent possible overdose due to improper measuring of the dose.

(4) Codeine is not recommended for use in children under 2 years of age. Children under 2 years may be more susceptible to the respiratory depressant effects of codeine, including respiratory arrest, coma, and death.

PART 369—INTERPRETATIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

8. The authority citation for 21 CFR Part 369 is revised to read as follows:

Authority: Secs. 502, 503, 506, 507, 701, 52 Stat. 1050–1052 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 352, 353, 356, 357, 371); 21 CFR 5.10 and 5.11.

§ 369.20 [Amended]

9. In Part 369, § 369.20 *Drugs; recommended warning and caution statements* is amended by removing the reference to paragraph (14) of § 310.201(a) from the entry " 'COUGH-DUE-TO-COLD' PREPARATIONS."

§ 369.21 [Amended]

10. In Part 369, § *369.21 Drugs; warning and caution statements required by regulations* is amended by removing the term "DEXTROMETHORPHAN HYDROBROMIDE" and by removing the reference to paragraph (14) of § 310.201(a) from the entry " 'COUGH-DUE-TO-COLD' PREPARATIONS (DEXTROMETHORPHAN HYDROBROMIDE AND CARBETAPENTANE CITRATE) and by removing the entry "DEXTROMETHORPHAN HYDROBROMIDE PREPARATIONS."

Dated: May 2, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87–18144 Filed 8–11–87; 8:45 am]

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federal register

Wednesday
August 12, 1987

Part IV

Department of Education

34 CFR 350, 351, 352, 353, 354, 355, 356, 357, 358, and 359

National Institute on Disability and Rehabilitation Research; Final Regulations and Notice of Final Funding Priorities for Fiscal Year 1987

DEPARTMENT OF EDUCATION

34 CFR Parts 350, 351, 352, 353, 354, 355, 356, 357, 358, and 359

National Institute on Disability and Rehabilitation Research

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the National Institute on Disability and Rehabilitation Research (NIDRR). These regulations implement certain changes to Titles I and II of the Rehabilitation Act of 1973 made by the Rehabilitation Act Amendments of 1986. The regulations revise the selection criteria for Rehabilitation Research and Training Centers (RRTC's) and Rehabilitation Engineering Centers (REC's) supported by NIDRR, incorporate site visits into the review of applications for grants for amounts above $299,999, provide for the consideration of an applicant's past performance in the evaluation of applications under the RRTC and REC programs, and incorporate certain technical requirements of the amendments.

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

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland, National Institute on Disability and Rehabilitation Research, 400 Maryland Avenue SW., Washington, DC, 20202. Telephone (202) 732-1142; deaf or hearing impaired persons who use telecommunication devices for the deaf (TDD) may call (202) 732-1198.

SUPPLEMENTARY INFORMATION: The National Institute on Disability and Rehabilitation Research (NIDRR), created under Title II of the Rehabilitation Act of 1973, as amended by Public Laws 95-602, 98-221, and 99-506, carries out a variety of research and related activities under that statutory authority. On September 10, 1981, the Secretary published final program regulations governing many of those activities (46 FR 45300), and on March 12, 1984, June 18, 1984, and April 26, 1985, revised those regulations (49 FR 9324 and 24978, and 50 FR 16672). The Secretary now amends the regulations to implement changes to the Act affecting NIDRR made by Pub. L. 99-506, the Rehabilitation Act Amendments of 1986, enacted on October 21, 1986. The 1986 amendments made a number of technical changes in the authority governing NIDRR and several significant changes affecting the manner in which applications are reviewed and selected for funding. These revised regulations incorporate the technical changes and also provide new selection criteria for two programs, as well as certain new peer review requirements.

On May 7, 1987, the Secretary published a notice of proposed rulemaking for NIDRR at 52 FR 17368. NIDRR received a number of comments, and several changes have been made to the proposed regulations in response to those comments. A Summary of the Comments and Responses is included as an Appendix to this document. The principal changes are an increase in the number of points awarded to the quality of the research design in the evaluation of applications for Rehabilitation Research and Training Centers (RRTC's), and a concomitant decrease in the maximum number of points awarded for two other selection criteria, relevance and importance of the research program and quality of the organization and management. However, these changes will not become effective until fiscal year 1988, as there was not sufficient time for NIDRR to make these changes effective for 1987 and still fund the Centers for which the Congress has directed funding.

Other changes from the proposed regulations are primarily to clarify the intent of the regulations. These include inserting physical restoration as one of the problem areas to be addressed by NIDRR-supported research; expanding references to rehabilitation of children with handicaps to include infants, toddlers, children, and youth; specifying that peer reviewers must have expertise related to the specific applications under review; including communication factors as subjects of the Research and Demonstration projects program (§ 351.10); and clarifying the requirement that Centers prepare materials in alternate media accessible to individuals with various types of disabilities.

Executive Order 12291

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

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority in the United States. Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 350

Administrative practice and procedure, Education, Educational research, Grant programs—education, Handicapped.

34 CFR Parts 351 and 353

Grant programs—education, Research, Vocational rehabilitation.

34 CFR Part 352

Education, Educational research, Grant programs—education, Handicapped, Manpower training programs, Vocational rehabilitation.

34 CFR Part 359

Education, Educational research, Grant programs—education, Handicapped, Vocational rehabilitation.

(Catalog of Federal Domestic Assistance Number 84.133, National Institute on Disability and Rehabilitation Research)

Dated: July 23, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations by amending Parts 350, 351, 352, 353, 354, 355, 356, 357, 358, and 359 as follows:

PART 350—[AMENDED]

1. The authority citation for Part 350 is revised to read as follows:

Authority: 29 U.S.C. 760-762, unless otherwise noted.

2. The title of Part 350 is revised to read as follows:

PART 350—DISABILITY AND REHABILITATION RESEARCH: GENERAL PROVISIONS

3. In § 350.1, the introductory text of (a) is republished, and the section is amended by revising the section heading, paragraphs (a) (1) and (3), and the citation of legal authority to read as follows:

§ 350.1 Disability and rehabilitation research.

(a) The purposes of activities funded by the Institute are to:

(1) Support the conduct of research and demonstration projects, centers, and related activities that address rehabilitation problems in areas such as physical restoration, vocational rehabilitation, independent living, and community integration for persons with handicaps, including programs of rehabilitation for infants, toddlers, children, and youth with handicaps and persons with handicaps aged sixty or older (fifty-five or older in the case of American Indians), and programs that train persons who provide rehabilitation services or conduct research;

* * * * *

(3) Improve the distribution of technological devices and equipment for persons with handicaps; and

* * * * *

(Authority: Secs. 200, 202, and 204; (29 U.S.C. 760, 761a, and 762))

4. Section 350.2 is amended by revising paragraphs (b) and (c), adding a new paragraph (d), and revising the citation of legal authority to read as follows:

§ 350.2 Who is eligible for assistance under these programs?

* * * * *

(b) Private agencies or organizations;

(c) Institutions of higher education; and

(d) Indian tribes and tribal organizations.

(Authority: Sec. 204(a); 29 U.S.C. 762a)

5. Section 350.3 is amended by revising the introductory text and paragraph (a)(2) to read as follows:

§ 350.3 What regulations apply to these programs?

The following regulations apply to grants under the Disability and Rehabilitation Research Programs—

(a) * * *

(2) Part 75 (Direct Grant Programs), except as noted in 34 CFR 352.33, 352.40, and 358.3;

* * * * *

6. Section 350.4 is amended by revising the introductory text in paragraphs (a) and (b); and also in paragraph (b) by removing the definitions of "Director" and "Handicapped individual" and their corresponding citations of legal authority, by revising the definition of "Institute", and adding new definitions of "American Indian", "Indian tribe", "Individual with handicaps", "Individual with severe handicaps", "Rehabilitation engineering", and "Supported employment", to read as follows:

§ 350.4 What definitions apply to these programs?

(a) The following definitions in 34 CFR Part 77 apply to the programs under Disability and Rehabilitation Research—

* * * * *

(b) The following definitions also apply to programs under Disability and Rehabilitation Research—

* * * * *

"American Indian" means an individual who is a member of an Indian tribe.

(Authority: Sec. 7(20); 29 U.S.C. 706(20))

* * * * *

"Indian tribe" means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act.

(Authority: Sec. 7(21); 29 U.S.C. 706(21))

"Individual with handicaps" means any individual who: (1) Has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment; and (2) can reasonably be expected to benefit in terms of employability from the provision of vocational rehabilitation services.

(Authority: Sec 7(8)(A); 29 U.S.C. 706(8)(A))

"Individual with severe handicaps" means an individual with handicaps: (1) Who has a severe physical or mental disability that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of employability; (2) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and (3) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, endstage renal disease, or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation.

(Authority: Sec. 7(15)(A); 29 U.S.C. 706(15)(A))

"Institute" means the National Institute on Disability and Rehabilitation Research.

* * * * *

"Rehabilitation engineering" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of an address the barriers confronted by individuals with handicaps in areas that include education, rehabilitation, employment, transportation, independent living, and recreation.

(Authority: Sec. 7(12); 29 U.S.C. 706(12))

* * * * *

"Supported employment" means competitive work in integrated work settings for individuals with severe handicaps for whom competitive employment has not traditionally occurred, or for whom competitive employment has been interrupted or intermittent as a result of severe disability, and who, because of the handicaps, need on-going support services to perform that work. The term includes transitional employment for individuals with chronic mental illness.

(Authority: Sec. 7(18); 29 U.S.C. 706(18))

* * * * *

7. Section 350.30 is revised to read as follows:

§ 350.30 What are the peer review panels for these programs?

The Secretary refers each application for a grant under the Disability and Rehabilitation Research Programs to a peer review panel established by the Secretary. Peer review panels review applications on the basis of the applicable selection criteria described in 34 CFR 350.34, 352.31, 353.31, 358.32, or 359.31.

(Authority: Sec. 202(e); 29 U.S.C. 761a(e))

8. Section 350.32 is amended by revising paragraph (a) and the citation of legal authority to read as follows:

§ 350.32 What is the composition of a peer review panel?

(a) The Secretary selects as members of a peer review panel scientists and other experts in rehabilitation or related fields who are qualified, on the basis of training, knowledge, or experience, to give expert advice on the merit of the applications under review. Applications for awards of $60,000 or more, except those for the purposes of evaluation, dissemination of information, or conferences, must be reviewed by a peer

review panel that consists of a majority of non-Federal members.

* * * * *

(Authority: Secs. 18 and 202(e); 29 U.S.C. 717 and 761a(e))

9. Section 350.33 is amended by revising paragraphs (a), (b), and (e) and the first sentence of paragraph (c) to read as follows:

§ 350.33 How does the Secretary evaluate an application under 34 CFR Parts 351, 354, 355, or 357?

(a) The Secretary evaluates an application under 34 CFR Part 351, 354, 355, or 357 on the basis of the selection criteria in § 350.34.

(b) Each criterion applies to all types of projects under the programs governed by these parts; the elements within each criterion also apply to all of the activities within the projects unless the regulations specifically state that their application is limited to certain types of activities.

(c) The Secretary awards up to five possible points for each criterion. * * *

* * * * *

(e) The maximum possible score for an application is 100 points.

(Authority: Sec. 202(e); 29 U.S.C. 761a(e))

10. The heading of § 350.34 is revised to read as follows:

§ 350.34 What selection criteria does the Secretary use in reviewing applications under Parts 351, 354, 355, or 357?

* * * * *

11. In Subpart D, a new § 350.35 is added to read as follows:

§ 350.35 What additional factors does the Secretary consider in reviewing applications under any Institute program:

(a) In making grants of more than $299,999 per year under any Institute program, the Secretary also considers the findings of an on-site review of the applicant. An on-site review is made of the applicant rated most highly by the peer review panel, and, at the discretion of the Secretary, of other applicants that are very highly rated by the peer review panel.

(b) The purpose of an on-site review is to verify certain aspects of the application, including facilites and resources, client populations, staffing, management structure, institutional support, and relations with other agencies, and to clarify certain aspects of the proposed activity if recommended by the members of the peer review panel.

(c) An on-site review is conducted by a group that includes one or more members of the peer review panel that originally reviewed by the application, supplemented by other experts as necessary.

(d) The Secretary uses the findings of the site review to assist in determining the order in which applications are selected for funding.

(Authority: Secs. 204(d)(2); 29 U.S.C. 762(d))

12. In § 350.40, the introductory text of (b)(1) is republished, and the section is amended by revising paragraph (b)(1)(iii) to read as follows:

§ 350.40 What are the matching requirements?

* * * * *

(b)(1) The Secretary may make grants to pay for part or all of the costs of the following activities:

* * * * *

(iii) Research projects concerned with end-stage renal disease, telecommunications, rehabilitation of children with handicaps and persons with handicaps who are aged sixty or older (or American Indians with handicaps who are aged fifty-five or older), attracting and retaining rehabilitation professionals in rural areas, producing and distributing captioned video cassettes for deaf individuals and innovative methods for providing services for children with handicaps and their parents.

* * * * *

PART 351—[AMENDED]

13. The authority citation for Part 351 is revised to read as follows:

Authority: 29 U.S.C. 750–762, unless otherwise noted.

14. The title of Part 351 is revised to read as follows:

PART 351—DISABILITY AND REHABILITATION RESEARCH: RESEARCH AND DEMONSTRATION PROJECTS

§ 351.1 [Amended]

§ 351.10 [Amended]

15. In Part 351, for each section listed in the left column in the list below, remove the phrase in the middle column from wherever it appears in the section, and add the phrase indicated in the right column in its place:

Sec.	Remove	Add
351.1	"handicapped individual", "handicapped individuals", "the most severely handicapped"	"individual with handicaps" "individuals with handicaps" "individuals with the most severe handicaps"
351.10	"handicapped individual"	"individual with handicaps"
	"handicapped individuals" "handicapped children"	"individuals with handicaps" "children with handicaps"
	"handicapped preschool children"	"children of preschool age with handicaps"
	"handicapped individuals aged sixty years and older"	"individuals with handicaps who are aged sixty years and older, or, in the case of American Indians, are aged fifty-five years or older"

16. In § 351.10 the introductory text of the section and the introductory text of paragraph (b) are republished, and the section is amended by revising paragraph (a), revising paragraphs (b)(6) and (7), and the citation of legal authority and adding new paragraphs (b)(8) and (9) to read as follows:

§ 351.10 What types of projects are authorized under this program?

The Research and Demonstration Projects Program provides financial assistance for the following types of projects—

(a) Research and Demonstration Projects as follows—Scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing disability, and techniques for rehabilitation, including basic research where related to rehabilitation techniques or services; studies and analyses of medical, industrial, vocational, social, recreational, psychiatric, psychological, communicative, economic, and other factors affecting rehabilitation of individuals with handicaps; research concerned with the special problems of homebound and institutionalized individuals; other research related to problems encountered by individuals with handicaps in their daily activities, especially problems related to employment, including supported employment; and demographic studies of individuals with handicaps.

(b) Specialized research activities as follows—

* * * * *

(6) Projects to develop and demonstrate methods to attract and retain professionals to serve in rural areas in the rehabilitation of individuals with handicaps;

(7) Research and demonstration projects related to the provision of services to children of preschool age with handicaps;

(8) Studies of the rehabilitation needs of American Indian populations, and of effective means for delivery of rehabilitation services to American

Indians residing on and off reservations; and

(9) Studies and demonstration programs to develop procedures to encourage development, manufacture, and marketing or orphan technological devices, such as tele-Braille systems for persons who are deaf-blind or special respirators for technology-dependent children, designed to enable individuals with handicaps to achieve independence and access to gainful employment.

(Authority: 204(a), 204(b)(3)–(5), 204(b)(7)–(9), 204(b)(11), 204(b)(14)–(15), and 202(b)(8); 29 U.S.C. 762(a), 762(b)(3)–(5), 762(b)(7)–(9), 762(b)(11), 762(b)(14)–(15), and 761a(b)(8))

PART 352—[AMENDED]

17. The authority citation for Part 352 is revised to read as follows:

Authority: 29 U.S.C. 762(b)(1), unless otherwise noted.

18. The title of Part 352 is revised to read as follows:

PART 352—DISABILITY AND REHABILITATION RESEARCH: REHABILITATION RESEARCH AND TRAINING CENTERS

19. Section 352.10 is amended by revising paragraphs (b) and (d) to read as follows:

§ 352.10 What types of centers are authorized under this program?

* * * * *

(b) The research to be conducted at each center must be based on the particular needs of individuals with handicaps in the geographic area served by the center. Centers may conduct basic research, if related to identifiable rehabilitation techniques or services, as well as applied rehabilitation research; research regarding the medical, psychological, and social aspects of rehabilitation; and research related to vocational rehabilitation, independent living, and the rehabilitation of infants, toddlers, children, and youth with handicaps, individuals with handicaps who are sixty years of age or older, or American Indians with handicaps who are fifty-five years of age or older; and research on problems related to disability in rural areas.

* * * * *

(d) A center may use part of its grant funds to provide to individuals with handicaps services that are connected with its research and training activities.

(Authority: Sec. 204(b)(1); 29 U.S.C. 762(b)(1))

20. Section 352.31 is revised to read as follows:

§ 352.31 What selection criteria are used under this program?

The Secretary evaluates applications under this program according to the following criteria:

(a) *Relevance and importance of the research program.* (20 points)

(Note.—For fiscal year 1987 only, the maximum number of points to be awarded under this criterion is 25 points.)

The Secretary reviews each application to determine to what degree—

(1) The proposed activities are responsive to a priority established by the Secretary and address a significant need of a disabled target population and rehabilitation service providers;

(2) The overall research program of the Center includes appropriate interdisciplinary and collaborative research activities, is likely to lead to new and useful knowledge in the priority area, and is likely to become a nationally recognized source of scientific knowledge; and

(3) The applicant demonstrates that all component activities of the Center are related to the overall objective of the Center, and will build upon and complement each other to enhance the likelihood of solving significant rehabilitation problems.

(b) *Quality of the research design.* (35 points)

(Note.—For fiscal year 1987 only, the maximum number of points to be awarded under this criterion is 25 points.)

The Secretary reviews each application to determine to what degree—

(1) The applicant proposes a comprehensive research program for the entire project period, including at least three interrelated research projects;

(2) The research design and methodology of each proposed activity are meritorious in that—

(i) The literature review is appropriate and indicates familiarity with current research in the field;

(ii) The research hypotheses are important and scientifically relevant;

(iii) The sample populations are appropriate and significant;

(iv) The data collection and measurement techniques are appropriate and likely to be effective;

(v) The data analysis methods are appropriate; and

(vi) The applicant assures that human subjects, animals, and the environment are adequately protected; and

(3) The application discusses the anticipated research results and demonstrates how those results would satisfy the original hypotheses and could be used for planning future research, including generation of new hypotheses where applicable.

(c) *Quality of the training and dissemination program.* (25 points): The Secretary reviews each application to determine the degree to which—

(1) The proposed plan for training and dissemination provides evidence that research results will be effectively disseminated and utilized based on the identification of appropriate and accessible target groups; the proposed training materials and methods are appropriate; the proposed activities are relevant to the regional and national needs of the rehabilitation field; and the training materials and dissemination packages will be developed in alternate media that are usable by people with various types of disabilities;

(2) The proposed plan for training and dissemination provides for—

(i) Advanced training in rehabilitation research;

(ii) Training rehabilitation service personnel and other appropriate individuals to improve practitioner skills based on new knowledge derived from research;

(iii) Training packages that make research results available to service providers, researchers, educators, disabled individuals, parents, and others;

(iv) Technical assistance or consultation that is responsive to the concerns of service providers and consumers; and

(v) Dissemination of research findings through publication in professional journals, textbooks, and consumer and other publications, and through other appropriate media such as audiovisual materials and telecommunications.

(d) *Quality of the organization and management.* (20 points):

(Note.—For fiscal year 1987 only, the maximum number of points to be awarded under this criterion is 25 points.)

The Secretary reviews each application to determine the degree to which—

(1) The staffing plan for the Center provides evidence that the project director, research director, training director, principal investigator and other personnel have appropriate training and experience in disciplines required to conduct the proposed activities; the commitment of staff time is adequate to conduct all proposed activities; and the Center, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(2) The budgets for the Center and for each component project are reasonable, adequate, and cost-effective for the proposed activities;

(3) The facilities, equipment, and other resources are adequate and are appropriately accessible to persons with disabilities;

(4) The plan of operations is adequate to accomplish the Center's objectives and to ensure proper and efficient management of the Center;

(5) The proposed relationships with Federal, State, and local rehabilitation service providers and consumer organizations are likely to ensure that the Center program is relevant and applicable to the needs of consumers and service providers;

(6) The past performance and accomplishments of the applicant indicate an ability to complete successfully the proposed scope of work;

(7) The application demonstrates appropriate commitment and support by the host institution and opportunities for interdisciplinary activities and collaboration with other institutions and organizations; and

(8) The plan for evaluation of the Center provides for an annual assessment of the outcomes of the research, the impact of the training and dissemination activities on the target populations, and the extent to which the overall objectives have been accomplished.

(Authority: Secs. 202(e), 202(i)(1), and 204(b)(1); 29 U.S.C. 761a(e), 761a(i)(1)), and 762(b)(1))

(Approved by the Office of Management and Budget under control number 1820-0027.)

21. A new Subpart E, consisting of § 352.40, is added to read as follows:

Subpart E—What Conditions Apply to a Grantee?

§ 352.40 What are the indirect cost requirements for this program?

A host institution with which a center is affiliated may not collect in excess of fifteen percent of the total grant award as indirect cost charges, notwithstanding the provisions in § 75.562 of EDGAR.

(Authority: Sec. 204(b)(1); (29 U.S.C. 762(b)(1))

PART 353—[AMENDED]

22. The authority citation for Part 353 is revised to read as follows:

Authority: 29 U.S.C. 762(b)(2), unless otherwise noted.

23. The title of Part 353 is revised to read as follows:

PART 353—DISABILITY AND REHABILITATION RESEARCH: REHABILITATION ENGINEERING CENTERS

24. Section 353.1 is amended by revising paragraphs (b) and (c) to read as follows:

§ 353.1 What is the rehabilitation engineering program?

* * * * *

(b) Development of systems of technical and engineering information exchange and coordination, including systems to disseminate innovative methods for the delivery of rehabilitation technology services; and

(c) Development of improvements in the distribution of technology devices and equipment to individuals with handicaps.

(Authority: Secs. 200(3), 204(b)(2); 29 U.S.C. 760(3), 762(b)(2)).

25. In § 353.10, the introductory texts of (a) and (b) are republished, and the section is amended by removing the word "and" at the end of paragraph (a)(iii), removing the period at the end of paragraph (a)(iv) and adding, in its place, a semicolon and the word "and", adding a new paragraph (a)(v), and revising paragraph (b)(1), to read as follows:

§ 353.10 What types of projects are authorized under this program?

* * * * *

(a) Establishment and support of Rehabilitation Engineering Research Centers.

* * * * *

(v) The activities of a Center may include developing and demonstrating innovative models for the delivery to rural and urban areas of cost-effective rehabilitation engineering services to address the barriers to employment and independent living needs confronted by individuals with handicaps.

(b) Research and demonstration projects of an engineering or technolgical nature as follows—

(1) Studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of individuals with handicaps, and projects to reduce environmental barriers;

* * * * *

26. Section 353.31 is revised to read as follows:

§ 353.31 What selection criteria are used under this program?

(a) *Relevance and importance of the research program.* (25 points) The Secretary reviews each application to determine to what degree—

(1) The proposed activities are responsive to a priority established by the Secretary and address a significant need of a disabled target population and rehabilitation service providers;

(2) The overall research program of the Center includes appropriate interdisciplinary and collaborative research activities, is likely to lead to new and useful knowledge in the priority area and to the development of new technology or new applications of existing technology, and is likely to become a nationally recognized source of information on technology in the priority area; and

(3) The applicant demonstrates that all component activities of the Center are related to the overall objectives of the Center, and will build upon and complement each other to enhance the likelihood of finding solutions to significant rehabilitation problems.

(b) *Quality of the research design.* (25 points) The Secretary reviews each application to determine to what degree—

(1) The applicant proposes a comprehensive program of research for the total project period, including at least three interrelated research projects;

(2) The research design and methodology of each proposed activity are meritorious in that—

(i) The literature review is appropriate and indicates familiarity with the state-of-the-art and current research in rehabilitation technology;

(ii) The research hypotheses are important and scientifically relevant;

(iii) The sample populations are appropriate and significant;

(iv) The data collection and measurement techniques are appropriate and likely to be effective;

(v) The data analysis methods are appropriate; and

(vi) The applicant assures that human subjects, animals, and the environment are adequately protected:

(3) The plan for development, clinical testing, and evaluation of new devices and technology is likely to yield significant products; and

(4) The application discusses the anticipated research results and demonstrates how those results would satisfy the original hypotheses and could be used for planning additional research, including the generation of new hypotheses where applicable.

(c) *Quality of the dissemination and utilization program.* (25 points) The Secretary reviews each application to determine the degree to which—

(1) The proposed plan for dissemination provides evidence that

research results will be effectively disseminated and utilized based on the identification of appropriate and accessible target groups; the proposed activities are relevant to the regional and national needs of the rehabilitation field; and dissemination packages will be prepared in a form usable by individuals with all types of disabilities;

(2) The proposed plan for dissemination and utilization of the research and development provides for—

(i) Orientation programs for rehabilitation service personnel to improve the application of rehabilitation technology;

(ii) Programs which specifically demonstrate means for utilizing rehabilitation technology;

(iii) Technical assistance and consultation that are responsive to concerns of service providers and consumers; and

(iv) Dissemination of reseach findings through publication in professional journals, textbooks, and consumer and other publications, and through other appropriate media such as audiovisual materials and telecommunications, in an effort to make research results accessible to manufacturers, rehabilitation service providers, researchers, educators, disabled individuals and their families, and others; and

(3) There is an appropriate plan to ensure the distribution and utilization of new devices and technology.

(d) *Quality of the organization and management.* (25 points): The Secretary reviews each application to determine the degree to which—

(1) The staffing plan for the Center provides evidence that the principal investigator and other personnel have appropriate training and experience in disciplines required to conduct the proposed activities; the commitment of time for all staff is adequate to conduct all proposed activities; and the Center, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition;

(2) The budgets for the Center and each of the proposed activities are reasonable, adequate, and cost-effective for the proposed activities;

(3) The facilities, equipment, and other resources are adequate and are appropriately accessible to persons with disabilities;

(4) The plan of operations is adequate to accomplish the Center's objectives and to ensure proper and efficient management of the Center;

(5) The proposed relationships with Federal, State, and local rehabilitation service providers and consumer organizations are likely to ensure that the Center program is relevant and applicable to the needs of consumers and service providers;

(6) The past performance and accomplishments of the applicant indicate an ability to complete successfully the proposed scope of work;

(7) The application demonstrates appropriate commitment and support by the host institution and opportunities for interdisciplinary activities and collaboration with other institutions; and

(8) The plan for evaluation of the Center will assess annually the outcomes of the discrete and interrelated research projects, the impact of the training and dissemination activities on the target populations, and the extent to which the overall objectives have been accomplished.

(**Authority:** Secs. 202(e), 202(i)(1), and 204(b)(2); 29 U.S.C. 761a(e), 761a(i)(1), and 762(b)(2))

(Approved by the Office of Management and Budget under control number 1820–0027.)

PART 354—[AMENDED]

27. The citation of authority for Part 354 is revised to read as follows:

Authority: 29 U.S.C. 762(b)(12), unless otherwise noted.

28. The title of Part 354 is revised to read as follows:

PART 354—DISABILITY AND REHABILITATION RESEARCH: MODEL RESEARCH AND TRAINING PROGRAM

PART 355—[AMENDED]

29. The citation of authority for Part 355 is revised to read as follows:

Authority: 29 U.S.C. 760–762, unless otherwise noted.

30. The title of Part 355 is revised to read as follows:

PART 355—DISABILITY AND REHABILITATION RESEARCH: KNOWLEDGE DISSEMINATION AND UTILIZATION PROGRAMS

PART 356—[AMENDED]

31. The citation of authority for Part 356 is revised to read as follows:

Authority: 29 U.S.C. 761a(d), unless otherwise noted.

32. The title of Part 356 is revised to read as follows:

PART 356—DISABILITY AND REHABILITATION RESEARCH: RESEARCH FELLOWSHIPS

§ 356.30 [Amended]

§ 356.32 [Amended]

33. Part 356 is amended in the sections listed in the left column by removing the name in the middle column and adding in its place the name in the right column, as follows:

Sec.	Remove	Add
356.30(b)(1)	"NIHR"	"the Institute"
356.32(b)	"NIHR"	"Institute's"

PART 357—[AMENDED]

34. The citation of authority for Part 357 is revised to read as follows:

Authority: 29 U.S.C. 760–762, unless otherwise noted.

35. The title of Part 357 is revised to read as follows:

PART 357—DISABILITY AND REHABILITATION RESEARCH: FIELD-INITIATED RESEARCH PROJECTS

§ 357.1 [Amended]

36. In § 357.1, in each paragraph indicated in the left column, remove the name in the middle column and add in its place the name in the right column, as follows:

Sec.	Remove	Add
357.1 (b)	"NIHR"	"Institute"
357.1 (c)	"NIHR"	"Institute"

PART 358—[AMENDED]

37. The citation of authority for Part 358 is revised to read as follows:

Authority: 29 U.S.C. 762(b)(13), unless otherwise noted.

38. The title of Part 358 is revised to read as follows:

PART 358—DISABILITY AND REHABILITATION RESEARCH: INNOVATION GRANTS PROGRAM

PART 359—[AMENDED]

39. The citation of authority for Part 359 is revised to read as follows:

Authority: 29 U.S.C. 777a(a), unless otherwise noted.

40. The title of Part 359 is revised to read as follows:

PART 359—DISABILITY AND REHABILITATION RESEARCH—SPECIAL PROJECTS AND DEMONSTRATIONS FOR SPINAL CORD INJURIES

41. A new § 359.32 is added to Subpart D to read as follows:

§ 359.32 What additional factors does the Secretary consider in making a grant under this program?

In determining which applicants to fund under this program, the Secretary also considers the proposed location of any project in order to achieve, to the extent possible, a geographic distribution of projects.

(Authority: Section 204(b)(3) of the Rehabilitation Act of 1973, as amended; (29 U.S.C. 762(b)(3))

Editorial note: This appendix will not appear in the Code of Federal Regulations.

Appendix—Summary of Comments and Responses

NIDRR received several letters commenting on the proposed rules. A summary of those comments, and the Secretary's responses to them, follows.

Comment: Several commenters urged that NIDRR increase the relative weight assigned to the selection criterion "Quality of the research design" in the evaluation of applications for RRTC's (§ 352.31(b)).

Response: A change has been made. The Secretary has increased the maximum number of points assigned to that criterion from 25 to 35 points. This increase will demonstrate the primacy of the research program in an RRTC without neglecting the other elements of a Center. This change will take effect in fiscal year 1988, so that the fiscal year 1987 competitions that were announced under the Notice of Proposed Rulemaking will be evaluated under the criteria in the NPRM, which assign a maximum of 25 points to that criterion. This change was not made effective for fiscal year 1987 because NIDRR would not have time to notify all applicants, allow them an extension of time to amend or resubmit their applications, and still make the 1987 awards directed by the Congress.

Comment: Several commenters urged that in evaluating applications for Centers, past performance should not be interpreted to give preference to existing RRTC's, expecially if they are applying to be Centers in new priority areas.

Response: No change has been made. The selection criteria apply the standard "the past performance and accomplishments of the applicant indicate an ability to complete successfully the proposed scope of work" to all applicants for RRTC's and REC's, whether or not they have previously held NIDRR Center grants. Each applicant institution thus has an opportunity to describe and document those prior activities that indicate such an ability.

Comment: Several commenters requested that NIDRR make changes in the definitions of "rehabilitation engineering" and "supported employment."

Response: No change has been made. These definitions are provided in the legislation that governs NIDRR, the Rehabilitation Act of 1973, as amended.

Comment: One commenter suggested that references to "children with handicaps" in certain sections be changed to "infants, toddlers, children, and youth with handicaps" to be consistent with nomenclature in related programs.

Response: A change has been made. The Secretary has adopted this wording in the relevant sections of the regulations.

Comment: One commenter suggested that the description of the qualifications of peer reviewers (§ 350.32(a)) should stress that their expertise is in the content area of the applications under review.

Response: A change has been made. The proposed regulations have been amended to make it clear that the members of the peer review panel must have qualifications related to the specific applications under review.

Comment: One commenter suggested that applicants for Centers who may have had poor past records but have corrected the problems be permitted to appeal adverse evaluations or to explain the corrective actions they have taken.

Response: No change has been made. The selection criterion dealing with past performance is only one factor in evaluating an applicant. The applicant is permitted to submit any relevant documentation of institutional and staff capability, including evidence of corrective action.

Comment: Several commenters urged that applicants without past performance records should not be penalized for lack of those records.

Response: No change has been made. The regulations permit applicants to submit documentation of past performance in any activities related to the management and conduct of a research and training activity. The Secretary believes it is valid to assign some value to prior experience as an indicator of future performance, and notes further that this is only one of many selection criteria.

Comment: Some commenters urged that a specified and more significant weight be assigned to the criterion of past performance.

Response: No change has been made. The Secretary believes peer reviewers should consider the factor of past performance in the context of all other factors that indicate the quality of the research and training activity that the applicant is likely to conduct.

Comment: Several commenters suggested that NIDRR change references to the staff of an RRTC in § 352.31(d) to reflect more accurately the different staff positions typically found in RRTC's. They stated that the typical Center has a single project director and several principal investigators, and may have a research director and a training director.

Response: A change has been made. The regulations now refer to a project director, research director, training director, and other key staff.

Comment: One commenter requested that physical restoration or medical rehabilitation be specified in the list of rehabilitation problems in § 350.1(a)(1).

Response: A change has been made. The Secretary agrees that physical restoration is an important area of rehabilitation research and should be emphasized in the regulations.

Comment: Several commenters recommended that site visits be part of the peer review of all highly rated applicants for awards above $299,000 per year.

Response: No change has been made. The regulations (§ 350.35) now permit the Secretary to exercise discretion in deciding to visit as many highly rated applicants as necessary to arrive at a fair decision.

Comment: One commenter suggested that the definition of older American Indians as fifty-five years or older, compared to sixty years or older for all other groups, was discriminatory.

Response: No change has been made. The Rehabilitation Act of 1973, as amended, defines older American Indians as those aged fifty-five years or older, and all other older individuals as those aged sixty years or older.

Comment: One commenter questioned the wisdom of requiring collaborative research in the RRTC's (§ 352.31(a)(2)). The commenter suggested that unusual skill and sophistication are required to conduct that research and that the expertise may not always be available to conduct this activity in an appropriate manner.

Response: No change has been made. The criterion in the regulations refers to "appropriate interdisciplinary and collaborative research activities." This does not require Centers to conduct

collaborative research, and would not even award positive consideration to collaborative research that was other than appropriate. Further, this is only one of the factors that peer reviewers will use in assessing the relevance and importance of the applicant's proposed research program.

Comment: Several commenters suggested that the requirement that Centers develop training packages and materials in forms suitable for individuals with all types of disabilities is unnecessary and impractical. Some commenters suggested that this should be limited to preparing materials in forms accessible to the target group of the particular Center, and others urged that the phrase "when appropriate" be inserted.

Response: A change has been made. The regulations now require that Centers prepare training and related materials in alternate media usable by individuals with a variety of types of disabilities. The Secretary intends that Centers make their materials accessible to a broad range of individuals with disabilities, regardless of whether the disability is a target of the Center's work.

Comment: One commenter suggested NIDRR specify that the site visit to an applicant for a grant should include a non-Federal member of the peer review team.

Response: No change has been made. While it is likely that a non-Federal peer reviewer will be involved in nearly all site visits, the Secretary does not want to preclude the use of a Federal peer reviewer when that individual possesses the most appropriate expertise for the assignment.

Comment: One commenter suggested that, in limiting the indirect charges that RRTC host institutions may collect, NIDRR has made an unnecessary reference to Education Department General Administrative Regulations (EDGAR) provisions concerning limitations on overhead for training.

Response: No change has been made. The indirect cost limitation included in the Rehabilitation Act Amendments of 1986 provides an exception to the EDGAR limitation on indirect costs for training projects as well as to the Common Accounting Procedures of the Office of Management and Budget (OMB). Since Part 75 of EDGAR applies generally to NIDRR research grants, it is necessary to indicate when certain EDGAR provisions are inapplicable.

Comment: One commenter urged that the regulations be amended to permit applicants for REC's to submit videotapes as part of their application packages.

Response: No change has been made. The NIDRR regulations do not address the form in which applicants submit applications, and thus do not preclude the use of videotapes. However, NIDRR cannot guarantee that all peer reviewers will have the facilities to view all types of videotapes. Information affecting the form of applications is contained in the Application Package, a separate document. NIDRR will consider including guide lines for the appropriate use of videotapes in future revisions to its Application Package.

Comment: One commenter suggested that the requirement that the research conducted in an RRTC should be relevant to the needs of individuals with disabilities in the geographic area would exclude individuals from other geographic areas from participating in the research programs.

Response: No change has been made. This provision is included in the Rehabilitation Act of 1973, as amended. The Secretary intends that this provision be met by a Center's providing a sufficient clincial population to conduct research in the specified priority area. NIDRR does not preclude individuals from any area of the country from seeking treatment in any NIDRR-sponsored RRTC.

Comment: One commenter stated that NIDRR should specify that RRTC's must be affiliated with clinical rehabilitation facilities in order to assure relevance to a clinical population.

Response: No change has been made. Linkage with a clinical rehabilitation program is already a requirement for RRTC's.

Comment: One commenter urged that § 351.10 be amended to specifically authorize Research and Demonstration projects to study communication factors affecting rehabilitation.

Response: A change has been made. The Secretary agrees that problems in communication are among the important factors affecting rehabilitations.

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BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Department of Education.

ACTION: Notice of final funding priorities for fiscal year 1987.

SUMMARY: The Secretary of Education announces final funding priorities for research activities to be supported under some programs of the National Institute on Disability and Rehabilitation Research (NIDRR) in fiscal year 1987. The Rehabilitation Act Amendments of 1986 directed NIDRR to establish three research centers for specific purposes. At the same time, NIDRR received an increased appropriation for fiscal year 1987; this has enabled the Secretary to fund projects in two additional priority areas.

These priorities were proposed for public comment in the **Federal Register** of May 7, 1987 at 52 FR 17375. A summary of the public comments and the Secretary's responses to them is included at the end of this notice.

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

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland, National Institute on Disability and Rehabilitation Research, (Telephone: (202) 732–1139). Deaf and hearing impaired individuals may call (202) 732–1198 for TDD services.

SUPPLEMENTARY INFORMATION: Authority for the research programs of NIDRR is contained in Section 204 of the Rehabilitation Act of 1973, as amended. Under this program, awards are made to public and private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations. NIDRR can make awards for up to 60 months.

The purpose of the awards is for planning and conducting research, demonstrations, and related activities which have a direct bearing on the development of methods, procedures, and devices to assist in providing vocational and other rehabilitation services to individuals with handicaps, especially those with the most severe handicaps.

NIDRR regulations authorize the Secretary to establish research priorities by reserving funds to support particular research activities (see 34 CFR 351.32). In the 1986 Amendments to the Rehabilitation Act, the Congress directed NIDRR to establish a Research and Training Center (RRTC) focusing on the problems of providing rehabilitation services in rural areas and also establish Rehabilitation Engineering Centers (REC's) in Connecticut and South Carolina to demonstrate and disseminate innovative models for delivering cost-effective rehabilitation engineering services.

These final priorities also provide for an additional RRTC in the management of behavioral disorders of developmentally disabled individuals and for a research and demonstration project to develop model systems to integrate case data from rehabilitation agencies, health care providers, and entitlement programs.

The publication of these final priorities does not bind the United States Department of Education to fund projects in any or all of these research areas, unless otherwise specified in statute. Funding of particular projects depends on the quality of the applications received.

The notice establishing the closing date for applications under these priorities was also published in the **Federal Register** on May 7, 1987 at 52 FR 17378. Potential applicants were advised to submit their applications based on the proposed priorities. There are no changes made in these final funding priorities that would require applicants to modify or resubmit their applications. The closing date for submitting applications under these priorities was July 7, 1987.

The following five priorities represent areas in which NIDRR intends to support research and related activities through grants or cooperative agreements in three programs: the Research and Demonstration Projects Program (R&D), the RRTC program, and the REC program.

Priority for Research and Demonstration Projects (1)

Automated Systems To Integrate Data for Joint Use of Rehabilitation Agencies, Health Care Providers, and Entitlement Programs

The Social Security Disability Insurance program (SSDI) provides income maintenance payments to individuals with disabilities on the basis of medical diagnosis of disability. The disability determination process is administered by a separate Social Security Disability Determination Unit in each state.

At present, it takes an average of sixty days or more to complete a disability determination review. Research findings indicate that rehabilitation can be greatly enhanced if the rehabilitative activity is initiated early in the course of the disability and the claims process.

There is a need to expedite the disability determination process. The records maintained by hospitals, medical rehabilitation centers, and other health care facilities contain extensive data that could be used to expedite the claims process, and that could also be used to assess potential for successful rehabilitation. These data are not now accessible to either the Disability Determination Services or the rehabilitation agencies. A systematic method for data sharing among these agencies involved with disability in its early stages is needed to facilitate both the claims process and rehabilitation.

In the conduct of any research or demonstration activities under this priority, the grantee will be expected to coordinate with the Social Security Administration, which will sponsor the project jointly with NIDRR.

An absolute priority will be given to applications for a project to:

- Develop systematic models for selecting case record information from providers of acute medical care and rehabilitation services on the basis of the claimant records used in the SSDI disability determination process;
- Investigate the feasibility, in terms of time, costs, and computer compatibility, of using automated, computer-based exchange of information between acute-care and rehabilitation facilities and the SSDI Disability Determination Services; and
- Evaluate the potential of developing "expert systems" (computer-based artificial intelligence that supports decision-making), incorporating data from records systems of acute-care and rehabilitation facilities, for use by disability claims examiners.

Priorities for Rehabilitation Research and Training Centers (2)

Management of Behavior Disorders in Individuals With Developmental Disabilities

Individuals with developmental disabilities, as well as their families, service providers, and policymakers, have indicated an increasing preference for participation in the full range of community activities as an alternative to segregated services. However, persons with developmental disabilities often exhibit severe behavior problems that may include physical and verbal abuse of self or others and may result in harm to the disabled individual, other people, or property. Many of the

available behavior management techniques used with this population were developed in segregated settings where aversive procedures were used. Aversive procedures are those that compromise the physical or psychological integrity of the disabled person, and would not normally be accepted in the community if applied to individuals who are handicapped. Since there are obvious constraints on the use of aversive procedures in normal community settings, persons with developmental disabilities often are unable to participate in integrated community settings for work, school, and recreations, and are more likely to be placed in institutions.

NIDRR intends to support an RRTC to conduct comprehensive research, training, and dissemination activities that will contribute to a reduction in the disruptive behavior of individuals with developmental disabilities living in community settings. The Office of Special Education Programs will cooperate with NIDRR in providing guidance to, and review of, this Center. The proposed Center is to develop practical techniques to address severe behavior problems in integrated settings, using non-aversive procedures. Non-aversive procedures are those that avoid the use of any intervention that causes physical injury or severe psychological damage, or that the community would find unacceptable if it were applied to nondisabled members of the population.

Any Center to be supported in response to this priority statement must provide for an advisory committee for the Center which includes significant representation of persons with developmental disabilities, parents, scientists, service providers, educators, and others with expertise in relevant aspects of developmental disability. The Center must also coordinate activities with other research and service centers, and with appropriate State agencies and private associations concerned with problems of developmental disabilities. The RRTC to be funded in response to this priority must have three nationally distributed research and training sites, each of which has a multi-investigator research team. There must be regular contact and collaboration among the sites on research and training.

An absolute priority will be given to applications for a rehabilitation research and training center to:

- Conduct programmatic research that extends theory, information, and applied technologies related to solving behavior problems in community settings, using non-aversive procedures and addressing in a comprehensive and organized manner the full array of causal factors and intervention strategies;
- Analyze patterns of behavior and the usual consequences of disruptive behavior for the purpose of identifying those factors most important for generalization and maintenance of acceptable behavior is community settings;
- Develop intervention strategies to teach and reinforce acceptable behavior, or improve techniques for the maintenance of nondisruptive behavior, and to enhance the potential of pharmacological agents to decrease disruptive behavior;
- Assess the use, in various settings, of positive reinforcement by family members, peers, teachers, coworkers, service providers, or minimally-trained care providers;
- Develop intervention strategies based on non-aversive techniques, that eliminate or significantly reduce disruptive behavior in community settings;
- Develop outcome indicators that measure the effects of these treatments on individuals with developmental disabilities;
- Provide training on the new treatments to community residence care providers, family members, employers, coworkers, teachers, case managers, providers of supported employment, transportation providers, community service providers, peers, and others who interact with persons with developmental disabilities in community settings;
- Involve all investigators in ongoing training and technical assistance on a national scope, making training opportunities available in different geographic areas through subcontract or other satellite arrangements;
- Conduct a series of national meetings to involve researchers, developmentally disabled individuals or family members, community service providers, and educators, to assess needs and disseminate information on new strategies; and
- Serve as an information clearinghouse on non-aversive procedures developed at the Center and at other sources.

Research in Rural Rehabilitation Services

The 1986 Amendments to the Rehabilitation Act direct NIDRR to establish a Center, associated with an institution of higher education, for research and training concerning the delivery of rehabilitation services to rural areas. The Department of Education's Rural Education and Rural Family Education Policy for the 1980's states the Department's intent to "disseminate information to educational institutions and programs serving rural communities" and to "assist in identifying and developing special programs available for handicapped individuals located in rural areas." The policy also supports research that "will focus on effective practices and characteristics of effective rural programs and projects."

It is estimated that about eight and one-half million individuals with disabilities live in rural areas. Many of the problems of disabled individuals in rural areas are unique. It may be necessary to redesign mobility aids, communication devices, and other assistive devices to meet the special conditions of use in rural areas. There is presently no continuing source of rehabilitation engineering expertise specializing in needs of rural disabled persons.

Independent living in rural areas is complicated by transportation problems, isolation, small numbers of disabled individuals available for support networks in any one geographic area, and other limitations of rural life. It is more difficult for rural independent living centers (ILCs) to identify the full array of services needed to implement the independent living concept.

The demand for dissemination and information sharing is greater in rural areas because of the geographic distances and barriers to personal access. Recent developments in the economic and social structures of rural areas will have an impact on the needs of disabled individuals in those areas. For example, population emigration to urban areas, closing of health care facilities and rural hospitals, and problems in maintaining family farms reduce the already limited availability of services and employment opportunities for disabled individuals. Currently, there is no research resource for determining the impact of these issues on disabled people in rural areas.

A critical element of any Center to be carried out under this priority will be the involvement of disabled, rural individuals in planning, developing, and implementing the program activities.

An absolute priority will be given to applications for a Center to:

- Develop methods to adapt or modify technological devices for disabled persons to accommodate the particular circumstances of rural areas;
- Evaluate and document these adaptations and develop a database that can be used to provide information about the availability of modified

devices and funding sources for these adaptations, to a wide range of consumers, service providers, manufacturers or vendors of durable medical supplies, engineers, medical personnel, and public or private rehabilitation counselors, as well as to generalized information resources such as ABLEDATA;

• Conduct programmatic research on the characteristics and needs of rural residents with disabilities, identify the most effective strategies to improve the daily lives and enhance the independence of these individuals, and identify the most effective approaches to the delivery of rehabilitation services and information in rural areas;

• Conduct research on the innovative application of telecommunications technology to problems of health care, rehabilitation, service delivery, and independent living for disabled individuals in rural areas;

• Develop an information system that is accessible through telecommunications devices and that includes the database on adapted technology, as well as other information on resources to assist rural disabled individuals to improve their housing, employment, transportation, attendant care, communications, recreation, or physical function;

• Develop and disseminate accessible materials and training programs targeted to disabled persons and service providers in rural areas, including the staff of independent living programs, in order to increase consumer awareness and professional expertise;

• Develop cooperative linkages to other relevant NIDRR-supported research programs in technology transfer, independent living, and service delivery to dispersed populations; and

• Conduct at least one state-of-the-art conference in a significant aspect of rural rehabilitation service delivery, and develop nationally recognized expertise in the delivery of rehabilitation services and dissemination of rehabilitation-related information to rural areas.

Priorities for Rehabilitation Engineering Centers (2)

Innovative Models for Cost-Effective Rehabilitation Engineering Services

The effective use of technological devices is a component of productive and fulfilling lives for persons with disabilities as it is for able-bodied individuals. Disabled persons use technological devices to replace or improve cognitive and physical functioning. Individuals with disabilities have used technological advances to increase mobility, to enhance employment options, and to enable living and working in normal community settings.

NIDRR currently funds Rehabilitation Engineering Centers for the purpose of developing devices to assist disabled individuals to overcome functional limitations or to modify the environment to facilitate integration of individuals with disabilities into regular community activities. While there is now a considerable amount of technology available, rehabilitation service providers are confronted with the challenge of matching the best available devices with the specific functional limitations or environmental barriers encountered by particular individuals with disabilities.

The 1986 Amendments to the Rehabilitation Act directed NIDRR to establish Rehabilitation Engineering Centers in Connecticut and South Carolina to demonstrate and disseminate innovative models for the delivery of cost-effective engineering services for individuals with disabilities in both urban and rural areas. These Centers must promote the use of engineering and other technological developments to assist in meeting the employment, education, and independent living needs of individuals with severe handicaps, as well as to assist in the identification and removal of barriers confronted by individuals with disabilities and the agencies providing services to them.

These Centers will develop service delivery models that can be implemented by State vocational rehabilitation agencies, independent living centers, or other public or private organizations that provide rehabilitation technology services to individuals with disabilities. The two Centers will coordinate their information dissemination and other activities with each other, as well as with the RRTC on rural rehabilitation and other relevant NIDRR-sponsored programs. A critical element of any Center to be funded under this priority will be the involvement of individuals with disabilities, including those who use rehabilitation technology, in planning, developing, and implementing Center activities.

An absolute priority will be given to applications for Rehabilitation Engineering Centers to:

• Develop and test models of rehabilitation technology service delivery systems that assess functional needs of persons with disabilities, match functional needs with technological devices, using expert systems as appropriate (computer-based artificial intelligence that supports decisionmaking) coordinate the acquisition, modification, and repair of devices, provide training in the use of devices, and evaluate the effectiveness of the devices;

• Evaluate the effectiveness of these models in terms of such factors as cost-effectiveness, quality assurance, management of liability issues, involvement of third-party payers, distribution of devices, responsiveness to rehabilitation service providers and disabled consumers, and other criteria;

• Develop a model for statewide databases, and electronic networks to access them, that identify available technological devices, local sources of devices and engineering services to adapt or fabricate devices, and gaps in available technology, and make these databases accessible to disabled individuals, engineers, rehabilitation service providers, manufacturers and vendors, and other relevant groups, as well as to national information resources such as ABLEDATA;

• Establish continuing education programs to provide accessible training to all relevant groups, including disabled consumers, rehabilitation technologists and counselors, and other service providers on the prescription, use, modification, and maintenance of appropriate technological devices to enhance physical and cognitive functioning, educational and employment opportunities, and independent living in integrated community settings;

• Develop and test training programs specifically designed to train volunteer technology counselors—including disabled users of devices, engineers, and other interested individuals—to assist individuals with disabilities to use technological devices to improve function or environment; and either

1. Establish a Center in Connecticut to accomplish the above objectives, to include the development of a nationally recognized resource for information on the repair and maintenance of technological devices, and the conduct of a state-of-the-art study in that area; or

2. Establish a Center in South Carolina to accomplish the above objectives, to include the development of a nationally recognized resource for information on innovative and effective systems for transportation of disabled individuals to places of employment, and the conduct of a state-of-the-art study in that area.

Summary of Comments and Responses

NIDRR received several letters of comment from the public concerning the proposed priorities. A summary of those

comments, and the Secretary's responses to them, are summarized below. No changes were made to the priorities as a result of the comments.

Comment: One commenter suggested that the priority for automated data exchange between the Social Security Disability Determination Units and rehabilitation agencies and facilities should include data from private practitioners as well as procedures for timely correction of errors that might be made in determinations.

Response: No change has been made. The Secretary agrees that these are worthwhile objectives, but does not want to broaden the scope of this project by requiring grantees to undertake these activities.

Comment: One commenter suggested that the priority for rural rehabilitation should include the development of a telecommunications system for rural service delivery.

Response: No change has been made. The priority as stated does not preclude an applicant from using this approach, and this is certainly one technique to achieve the objectives of the priority. However, the Secretary does not intend to require that all applicants include telecommunications systems in their project proposals.

Comment: One commenter urged that augmentative communication devices should be among those considered in the development of technology service delivery models in the South Carolina and Connecticut Rehabilitation Engineering Centers.

Response: No change has been made. The priority as stated includes all types of technological devices and services that are used by individuals with disabilities.

Comment: One commenter suggested that the priority for managing behavioral problems in individuals with developmental disabilities should focus on persons residing in institutional settings and should focus on emotional disorders as well as behavioral problems.

Response: No change has been made. The Secretary agrees that individuals who reside in institutions should benefit from the interventions developed. However, the purpose of this priority is to develop techniques for dealing with disruptive behavior in integrated settings of individuals with developmental disabilities who reside in the community. Further, the focus of this priority is on treating individuals with developmental disabilities who exhibit problem behaviors. Emotional disorders may or may not be present and may or may not be diagnosed in these individuals, but it is the remediation of disruptive behavior that is the purpose of this priority.

Comment: Several commenters objected to the specification that the two Engineering Centers be located in Connecticut and South Carolina, arguing that NIDRR may not be able to fund the best programs under these restrictions.

Response: No change has been made. The Secretary agrees that under these restrictions NIDRR may not be able to fund the best candidates for establishing two new Engineering Centers. However, the Rehabilitation Act Amendments of 1986 specifically require NIDRR to establish Rehabilitation Engineering Centers in these two States.

(Catalog of Federal Domestic Assistance No. 84.133, National Institute on Disability and Rehabilitation Research)

Dated: July 6, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87-18184 Filed 8-11-87; 8:45 am]

BILLING CODE 4000-01-M

federal register

Wednesday
August 12, 1987

Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 1, 5, 7, et al.
Federal Acquisition Regulation; Final Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 5, 7, 13, 19, 22, 25, 28, 31, 32, 45, 52, and 53

[Federal Acquisition Circular 84-29]

Federal Acquisition Regulation

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: Federal Acquisition Circular (FAC) 84-29 amends the Federal Acquisition Regulation (FAR) with respect to the following: Public Announcement of Contract Awards; Economic Order Quantities; Small Business Size Standards; Regular Dealer—Specialty Advertising Product Dealer; Bid Guarantee, Optional Overseas; Contracts with Indian Tribal Governments, Correction of FAR 31.107; Reducing Customary Progress Payment Rates; Use of Government Property; Inventory Schedules, Preparing and Submitting Standard Form (SF) 1432; FAR Changes Clauses; Revision of Standard Form (SF) 1436, Settlement Proposal (Total Cost Basis); and Editorial Corrections.

EFFECTIVE DATE: August 24, 1987.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION:

A. Paperwork Reduction Act

FAC 84-29, Items I, III, V, VI, VII, VIII, IX, X, XI, and XII. The Paperwork Reduction Act (Pub. L. 96-511) does not apply because these final rules do not impose any additional reporting or recordkeeping requirements on the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

FAC 84-29, Item II. The information collection requirements in this rule have been approved by the Office of Management and Budget (OMB) as required by 44 U.S.C. 3501, et seq., and have been assigned OMB control number 9000-0082 (see FAR 1.105).

FAC 84-29, Item IV. Coverage on the Paperwork Reduction Act (Pub. L. 96-511) has been handled by the Department of Labor and approved by OMB as required by 44 U.S.C. 3501, et seq., and has been assigned OMB control number 1215-0157 (see FAR 1.105).

B. Regulatory Flexibility Act

FAC 84-29, Item I, III, V, VIII, IX, XI, and XII. Analyses of these revisions indicate that they are not "significant revisions" as defined in FAR 1.501-1; i.e., they do not alter the substantive meaning of any coverage in the FAR having a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98-525 and section 302 of Pub. L. 98-577 pertaining to publication of proposed regulations (as implemented in FAR Subpart 1.5, Agency and Public Participation), solicitation of agency and public views on these revisions is not required. Since such solicitation is not required, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) does not apply.

FAC 84-29, Item II. It is certified that the revised FAR coverage on planning for the purchase of supplies in economic quantities will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because it does not impose additional mandatory reporting requirements or add new contractual requirements on small businesses. Responses to the prescribed solicitation notice are entirely voluntary and the type of information requested should normally be readily available in small businesses.

FAC 84-29, Item IV. The Department of Labor (DOL) performed a regulatory flexibility analysis at the time DOL issued the final rule in their regulation which this FAR final rule implements. Accordingly, a new analysis is not required for this rule.

FAC 84-29, Item VI. It is certified that this revision to FAR 31.107 does not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because it merely adds language that was erroneously omitted when the FAR was originally published. FAR Subpart 31.6, which is referenced in FAR 31.107, already makes reference to federally recognized Indian tribal governments. No change in coverage or meaning is intended or made.

FAC 84-29, Item VII. Since the publication of a proposed FAR rule dealing with customary progress payment rates on September 2, 1986 (51 FR 31194), section 9105 of the fiscal year 1987 Department of Defense Appropriations Act (Title IX, Pub. L. 99-500) directed a reduction in progress payment rates of at least 5 percent for DOD contracts. As a consequence, the DOD FAR Supplement has been revised to establish customary progress payment rates for DOD contracts of 75 percent for large business and 80 percent for small businesses.

The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council have decided to implement the originally proposed customary progress payment rates of 80 percent for large businesses and 85 percent for small business in the FAR for application to agencies other that DOD. These are the historical rates that were in effect before the prevailing interest rates of the early 1980's prompted the Government to increase progress payment rates to their present levels of 90 percent for large businesses and 95 percent for small businesses. They are also the rates recommended by a number of Government studies (e.g., Grace Commission and DOD's Defense Financial and Investment Review).

As the vast majority of progress payments made, perhaps as large a percentage as 90 percent, occur under DOD contracts, an insubstantial number of small entities will be affected by the FAR rule. Therefore, it is certified that this revision will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.).

FAC 84-29, Item X. A notice of request for public comments was published in the **Federal Register** on May 23, 1985 (50 FR 21313). Because of the comments received from industry, a proposed rule was published on May 2, 1986 (51 FR 16462). A summary of the initial Regulatory Flexibility Act Analysis was published on May 2, 1986. A final Regulatory Flexibility Analysis has been performed and is on file in the office of the FAR Secretariat.

C. Public Comments

FAC 84-29, Item II. Federal Acquisition Circular (FAC) 84-11, published in the **Federal Register** on August 30, 1985, included an interim rule on planning for the purchase of supplies in economic quantities. As a result of public comments received, that coverage was revised and is hereby published as a final rule. However, FAR sections 14.212 and 15.415 are being finalized without change.

FAC 84-29, Item VII. A notice of the proposed rule was published in the **Federal Register** on September 2, 1986 (51 FR 31194). The Defense Acquisition Regulatory Council and the Civilian

Agency Acquisition Council have considered the public comments solicited. Three of 22 respondents stated that an 85 percent progress payment rate as versus the current 95 percent rate would place too much burden on small business contractors. The Councils believe that reductions in customary progress payment rates for both large and small businesses are in keeping with improvements in the economic environment. For example, the prime interest rate is now in the neighborhood of 7.5 percent as compared to 19 percent when the progress payment rates were raised from 80 percent for large businesses and 85 percent for small businesses.

It is recognized that small businesses have a higher financing burden as described by some of the respondents. However, the higher burdens are the reasons why some of the rules are more liberal for small businesses. Differences in rules include: higher customary progress payment rate (e.g., 85 percent versus 80 percent), lower threshold for incorporating progress payment provisions into contracts, and paying almost all costs on an incurred basis rather than to delay payments until cash disbursements have been made by the contractor. Based on the comments received, the Councils are not persuaded that arguments emphasizing higher small business burdens overcome the significant interest rate decreases which have occurred and the more liberal rules for small businesses already in place.

Consequently, the proposed rule is being adopted as a final rule.

List of Subjects in 48 CFR Parts 1, 5, 7, 13, 19, 22, 25, 28, 31, 32, 45, 52, and 53

Government procurement.

Date: August 6, 1987.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Federal Acquisition Circular

[Number 84-29]

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 84-29 is effective August 24, 1987.

Eleanor R. Spector,

Deputy Assistant Secretary of Defense for Procurement.

August 6, 1987.

Terence C. Golden,

Administrator, GSA.

July 30, 1987.

S.J. Evans,

Assistant Administrator for Procurement, NASA.

August 6, 1987.

Federal Acquisition (FAC) 84-29 amends the Federal Acquisition Regulation (FAR) as specified below.

Item I—Public Announcement of Contract Awards

FAR 5.303 is revised to allow agencies to announce awards at a minimum dollar threshold other than $3 million if they so desire. This was done to recognize the fact that the same threshold was not suitable for all agencies and to eliminate the need for FAR changes or deviations to accommodate the different needs of disparate agencies.

Item II—Economic Order Quantities

FAR Subpart 7.2 and FAR 52.207-4 which were incorporated in FAC 84-11 as interim rules (see Item II of FAC 84-11 published in the **Federal Register** on August 30, 1985 [50 FR 35474]) are hereby revised and incorporated as final rules to prescribe policies, procedures, and a contract provision for gathering and using information from offerors to assist the Government in planning the most advantageous quantities in which supplies should be purchased. FAR sections 14.212 and 15.415 are adopted as final rules without change. Under the final coverage, offerors are invited to state an opinion on whether the quantity of supplies proposed to be acquired is economically advantageous to the Government and, if applicable, to recommend a more advantageous quantity, including a quoted unit and total price. FAR 52.207-4 is modified to revise the definition of "economic purchase, quantity" in paragraph (b) of the solicitation provision. A revision to FAR 13.107(d) is added in the final rule to extend the requirements of the interim rule to small purchases. Also, FAR 7.203 is revised to (1) make mandatory, rather than optional, the requirement for civilian agencies to include the provision at FAR 52.207-4 in solicitations for supplies, and (2) provide a number of exemptions where the provision need not be included in solicitations. This FAR amendment implements section 1233 of Pub. L. 98-525 and section 205 of Pub. L. 98-577.

Item III—Small Business Size Standards

FAR 19.102 is revised in the table of industry size standards to reflect corrections made by the Small Business Administration in FR Doc. 87-12906 published in the **Federal Register** issue of June 8, 1987 (52 FR 21497).

Item IV—Regular Dealer—Specialty Advertising Product Dealer

FAR 22.606-2(b) is revised to comply with the Department of Labor's amendment to the Walsh-Healy Public Contracts Act regulations to provide an alternative definition for a regular dealer in specialty advertising products.

Item V—Bid Guarantee, Optional Overseas

FAR 28.101-1(c) is revised to permit a waiver for bid guarantees for construction work to be performed overseas.

Item VI—Contracts With Indian Tribal Governments

FAR 31.107 is revised to add an erroneously omitted reference to "federally recognized Indian tribal governments" in the applicability language for FAR Subpart 31.6—Contracts With State, Local, and Federally Recognized Indian Tribal Governments.

Item VII—Reducing Customary Progress Payment Rates

FAR Part 32 revised to accomplish the following: (1) Lower the customary progress payment rate for large businesses from 90% to 80% and for small businesses from 95% to 85%, (2) incorporate the progress payment limitations on undefinitized contract actions that had been established under the Defense Procurement Improvement Act of 1986, and (3) provide guidance for situations where more than one progress payment rate is being used

Item VIII—Use of Government Property

FR 45.509-2(b) is revised by (a) establishing a specified dollar level, i.e., an acquisition cost of $5,000 or more, as the threshold for application of the requirements in FAR 45.509-2(b) (1) through (b)(4), and (b) changing the term "package plants and standby lines" to "plants and equipment retained for mobilization."

Item IX—Inventory Schedules, Preparing and Submitting Standard Form (SF) 1432

FAR 45.606-5(e)(4)(ii) is revised to clarify the descriptive information to be included on the SF 1432 when a contractor reports excess special tooling

and special test equipment for disposal action. In order to permit the Government to determine the appropriate disposition and to maximize the reutilitzation potential, the function performed by, and the end-item application of, the special tooling or the special test equipment must be included on the inventory schedule. An editorial change to 45.606–5(e)(4)(i) is also made.

Item X—FAR Changes Clauses

FAR clauses 52.243–1, 52.243–2, 52.243–3, and 52.243–4 are amended to reinstate the pre-FAR requirement that the contractor must "assert its right to an adjustment" rather than "submit its proposal for adjustment" within 30 days from the receipt of a written order. While this action corrects an unintended policy change which occurred during drafting of the FAR, contractors should not construe this action as a relaxation of the FAR 43.204 requirement for prompt definitization of unpriced change orders.

Item XI—Settlement Proposal (Total Cost Basis), Revision of Standard Form (SF) 1436

FAR 53.249, Termination of contracts (SF's 1034 and 1435 through 1440), is amended in paragraph (a)(3) to allow for the correction of a typographical error on SF 1436. Pending the publication of a new edition of the form, currently dated October 1983, a pen and ink change to Item 7, Section II of the form is authorized and should read, "Total Costs (Items 1 thru 6)."

Item XII—Editorial Corrections

Therefore, 48 CFR Parts 1, 5, 7, 13, 19, 22, 25, 28, 31, 32, 45, 52, and 53 are amended as set forth below.

The interim rule (FAC 84–17) amending Part 25 and sections 52.225–8 and 52.225–9 which was published on May 6, 1986 (51 FR 16802), with a correction on June 10, 1986 (51 FR 20976), is hereby adopted as a final rule without change.

The interim rule (FAC 84–22) amending Part 25, which was published in the **Federal Register** on August 27, 1986 (51 FR 30618), with a correction published on March 23, 1987 (52 FR 8567), is hereby adopted as a final rule.

1. The authority citation for 48 CFR Parts 1, 5, 7, 13, 19, 22, 25, 28, 31, 32, 45, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Section 1.105 is amended by adding, in numerical order, two FAR segments, each with a corresponding OMB Control Number to read as follows:

1.105 OMB approval under the Paperwork Reduction Act.

FAR segment	OMB control No.
* * * * *	
7.2	9000–0082
* * * * *	
22.606–2(b)	1215–0157
* * * * *	

PART 5—PUBLICIZING CONTRACT ACTIONS

3. Section 5.303 is amended by revising in paragraph (a) the first sentence to read as follows:

5.303 Announcement of contract awards.

(a) * * * Contracting officers shall make information available on awards over $3 million (unless another dollar amount is specified in agency acquisition regulations) in sufficient time for the agency concerned to announce it by Washington, DC time on the day of award. * * *

PART 7—ACQUISITION PLANNING

4. Section 7.203 is revised to read as follows:

7.203 Solicitation provision.

Contracting officers shall insert the provision at 52.207–4, Economic Purchase Quantity—Supplies, in solicitations for supplies. The provision need not be inserted if the solicitation is for a contract under the General Services Administration's multiple award schedule contract program, or if the contracting officer determines that (a) the Government already has the data, (b) the data is otherwise readily available, or (c) it is impracticable for the Government to vary its future requirements.

PART 13—SMALL PURCHASE AND OTHER SIMPLIFIED PROCEDURES

5. Section 13.107 is amended by adding paragraph (d) to read as follows:

13.107 Solicitation and evaluation of quotations.

* * * * *

(d) *Economic purchase quantities (supplies).* Contracting officers shall comply with the economic purchase quantity planning requirements for supplies in Subpart 7.2. If quotations are solicited in writing, contracting officers shall comply with 7.203 and 7.204. If quotations are solicited orally, contracting officers shall orally request the information covered by the provision at 52.207–4 in accordance with the instructions at 7.203 and then comply with 7.204.

PART 19—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

19.102 [Amended]

6. Section 19.102 is amended by removing the figure "$0.1" in Major Group 02 for SIC Code 0212–0291 and inserting in its place the figure "$0.5".

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

7. Section 22.606–2 is amended by revising paragraph (b) to read as follows:

22.606–2 Regular dealer.

* * * * *

(b) For certain specific products (lumber and timber products, machine tools, hay, grain, feed or straw, raw cotton, green coffee, petroleum, agricultural liming materials, tea, raw or unmanufactured cotton linters, certain uranium products, used automatic data processing equipment, and specialty advertising products), there are alternate qualifications for regular dealers in which the dealer need not physically maintain a stock. The requirements under the alternative qualifications are in 41 CFR 50–201.101(a)(2) and 50–201.604.

* * * * *

PART 28—BONDS AND INSURANCE

8. Section 28.101–1 is amended by adding paragraph (c) to read as follows:

28.101–1 Policy on use.

* * * * *

(c) The head of the contracting activity may waive the requirement for bid guarantees if it is determined that bid guarantees are not in the best interest of the Government in contracting for construction to be performed overseas.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

9. Section 31.107 is amended by revising the section title and paragraph (a) to read as follows:

31.107 Contracts with State, local, and federally recognized Indian tribal governments.

(a) Subpart 31.6 provides principles and standards for determining costs

applicable to contracts with State, local, and federally recognized Indian tribal governments. They provide the basis for a uniform approach to the problem of determining costs and to promote efficiency and better relationships between State, local, and federally recognized Indian tribal governments, and Federal Government entities. They apply to all programs that involve contracts with State, local, and federally recognized Indian tribal governments, except contracts with—

* * * * *

31.205-44 [Amended]

10. Section 31.205-44 is amended in the first sentence of paragraph (i) by inserting a comma following the word "tuition".

PART 32—CONTRACT FINANCING

11. Section 32.001 is added to read as follows:

32.001 Definition.

"Contract action," as used in this part, means an action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

12. Section 32.102 is amended by revising paragraph (e)(2) to read as follows:

32.102 Description of contract financing methods.

* * * * *

(e) * * *

(2) This type of progress payment may be used as a payment method under agency procedures. Agency procedures must ensure that payments are commensurate with work accomplished, which meets the quality standards established under the contract. Furthermore, progress payments may not exceed 80 percent of the eligible costs of work accomplished on undefinitized contract actions.

13. Section 32.501-1 is amended by revising the first two sentences in paragraph (a) and by adding paragraph (d) to read as follows:

32.501-1 Customary progress payment rates.

(a) The customary progress payment rate is 80 percent, applicable to the total costs of performing the contract. The customary rate for contracts with small business concerns is 85 percent. * * *

* * * * *

(d) In accordance with the Defense Procurement Improvement Act of 1986 (Pub. L. 99-145) and, for civilian agencies, as a matter of policy, progress payments are limited to 80 percent on work accomplished under undefinitized contract actions. A higher rate is not authorized under unusual progress payments or flexible progress payments for the undefinitized actions.

14. Section 32.502-4 is amended by adding paragraph (d) to read as follows:

32.502-4 Contract clauses.

* * * * *

(d) If the nature of the contract necessitates separate progress payment rates for portions of work that are clearly severable and accounting segregation would be maintained (e.g., annual production requirements), the application of separate progress payment rates shall be fully described in a supplementary special provision within the contract. Separate progress payment requests and subsequent invoices shall be submitted by the contractor for the severable portions of work in order to maintain accounting integrity.

15. Section 32.503-6 is amended by revising the following entries in Section II of paragraph (g)(4) to read as follows:

32.503-6 Suspension or reduction of payments.

(g) * * *

(4) * * *

Section II:

* * * * *

Progress payment rate	×80%
Alternate amount to be used	$599,760

* * * * *

16. Section 32.503-8 is amended by removing in the sixth sentence the figure "86.1" and inserting in its place the figure "76.5" and by revising the following entries in the sixth sentence to read as follows:

32.503-8 Liquidation rates—ordinary method.

* * * * *

Result × progress payment rate (4.33 × 80%)	Percent 3.46
Result subtracted from progress payment rate (80%–3.46%)	76.54

17. Section 32.503-10 is amended by revising paragraphs (b)(3)(i), (b)(3)(ii), and (b)(3)(iii) to read as follows:

32.503-10 Establishing alternate liquidation rates.

* * * * *

(b) * * *

(3) * * *

(i) If the progress payment rate is 80 percent, the minimum liquidation rate should be 72.7 percent, computed as follows:

$$\frac{(\$1{,}000{,}000 \times 80\%)}{\$1{,}100{,}000} = 72.7\%$$

(ii) If the progress payment rate is 85 percent, the minimum liquidation rate should be 77.3 percent, computed as follows:

$$\frac{(\$1{,}000{,}000 \times 85\%)}{\$1{,}100{,}000} = 77.3\%$$

(iii) If the contract is subject to CAS limitation on G&A eligible for progress payments (see 32.503-7), an adjusted alternate liquidation rate shall be established by subtracting the estimated G&A not eligible for progress payments from the total estimated contract costs. For example, if the price is $1,100,000, costs are $1,000,000, and unbilled G&A is $47,600, the liquidation rate should be 69.3 percent, computed as follows:

$$\frac{(\$1{,}000{,}000 - \$47{,}600)}{\$1{,}100{,}000} \times 80\% = 69.3\%$$

PART 45—GOVERNMENT PROPERTY

18. Section 45.509–2 is amended by revising paragraphs (b) and (b)(1) to read as follows:

45.509–2 Use of Government property.

* * * * *

(b) With respect to plant equipment with an acquisition value of $5,000 or more, the procedures, as a minimum, shall—

(1) Establish a minimum level of use below which an analysis of need shall be made and retention justified, except for inactive plants and equipment retained for mobilization (the use level may be established for individual items or families of items, depending upon circumstances of use);

* * * * *

19. Section 45.606–5 is amended by revising paragraphs (e)(4)(i) and (e)(4)(ii) to read as follows:

45.606–5 Instructions for preparing and submitting schedules of contractor inventory.

* * * * *

(e) * * *

(4) * * *

(i) *Classification.* Use of a new form for each general classification of special tooling and special test equipment.

(ii) *Description.* Furnish a description which will enable the plant clearance officer or screener to determine the appropriate disposition, including the potential for reutilization. Include tool nomenclature, tool number, related product part number, and function which the tool performs. Designate special tooling usable for maintenance programs by placing the letter "M" in the left-hand column, "For Use of Contracting Agency Only." Provide the end-item application and a brief description of the test function for each unit of special test equipment.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

20. Section 52.207–4 is amended by removing in the title of the provision the date "(JUL 1985)" and inserting in its place the date "(AUG 1987)" and by revising the third sentence in paragraph (b) of the provision to read as follows:

52.207–4 Economic Purchase Quantity—Supplies.

* * * * *

(b) * * * An economic purchase quantity is that quantity at which a significant price break occurs. * * *

52.223–3 [Amended]

21. Section 52.223–3 is amended by inserting a colon in the introductory text following the word "clause" and removing the remainder of the sentence; removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(AUG 1987)"; removing in the first sentence of paragraphs (a) and (b) of the clause the reference "313A" and inserting in each place the reference "313B"; removing in paragraph (e)(5)(ii) of the clause the reference "52.227–18" and inserting in its place the reference "52.227–14"; and removing the derivation line following "(End of clause)".

22. Section 52.232–5 is amended by removing in the title of the clause the date "(MAY 1986)" and inserting in its place the date "(AUG 1987)"; by revising the first sentence in paragraph (b) of the clause; and by adding paragraph (g) to read as follows:

52.232–5 Payments under fixed-price construction contracts.

* * * * *

(b) The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer. * * *

* * * * *

(g) Notwithstanding any provision of this contract, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(End of clause)

23. Section 52.232–10 is amended by removing in the title of the clause the date "(JUL 1985)" and inserting in its place the date "(AUG 1987)"; by revising the first sentence in paragraph (a); and by adding paragraph (e) to read as follows:

52.232–10 Payments under fixed-price architect-engineer contracts.

* * * * *

(a) Estimates shall be made monthly of the amount and value of the work accomplished and services performed by the Contractor under this contract which meet standards of quality established under this contract.

* * * * *

(e) Notwithstanding any other provision in this contract, and specifically paragraph (b) of this clause, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(End of clause)

24. Section 52.232–16 is amended by removing in the title of the clause, and in the title of Alternate I and Alternate II the date "(APR 1984)" and inserting in each place the date "(AUG 1987); by removing in paragraph (a)(1)(i) of the clause the words "90 percent" and inserting in their place the words "80 percent"; by removing in paragraph (a)(5) and in the first sentence of paragraph (b) of the clause the words "90 percent" and inserting in their place the words "80 percent"; by revising paragraph (j)(3)(i) of the clause; by adding paragraph (k) to the clause; by removing both derivation lines following "(End of clause)" and each derivation line at the end of Alternate I and II; by revising the introductory text of Alternate I and II; by removing in paragraph (a)(1)(i) of Alternate I the words "95 percent" and inserting in their place the words "85 percent"; by redesignating and revising paragraph (k) in Alternate II as paragraph (1); and by adding paragraph (m) in Alternate II to read as follows:

52.232–16 Progress Payments

* * * * *

(j) * * *

(3) * * *

(i) Are substantially similar to the terms of the clause at 52.232–16, Progress Payments, for any subcontractor that is a large business concern, or that clause with its *Alternate I* for any subcontractor that is a small business concern;

* * * * *

(k) *Limitations on Undefinitized Contract Actions.* Notwithstanding any other progress payment provisions in this contract, progress payments may not exceed 80 percent of costs incurred on work accomplished under undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes. This limitation shall apply to the costs incurred, as computed in accordance with paragraph (a) of this clause, and shall remain in effect until the contract action is definitized. Costs incurred which are subject to this limitation shall be segregated on Contractor progress payment

requests and invoices from those costs eligible for higher progress payment rates. For purposes of progress payment liquidation, as described in paragraph (b) of this clause, progress payments for undefinitized contract actions shall be liquidated at 80 percent of the amount invoiced for work performed under the undefinitized contract action as long as the contract action remains undefinitized. The amount of unliquidated progress payments for undefinitized contract actions shall not exceed 80 percent of the maximum liability of the Government under the undefinitized contract action or such lower limit specified elsewhere in the contract. Separate limits may be specified for separate actions.

(End of clause)

Alternate I (AUG 1987). If the contract is with a small business concern, change each mention of the progress payment and liquidation rates excepting paragraph (k) to the customary rate of 85 percent for small business concerns (see 32.501–1), delete subparagraphs (a)(1) and (a)(2) from the basic clause, and substitute the following subparagraphs (a)(1) and (a)(2):

* * * * *

Alternate II (AUG 1987). If the contract is a letter contract, add paragraphs (l) and (m). The amount specified in paragraph (m) shall not exceed 80 percent applied to the maximum liability of the Government under the letter contract. Separate limits may be specified for separate parts of the work.

(l) Progress payments made under this letter contract shall, unless previously liquidated under paragraph (b) of this clause, be liquidated under the following procedures:

(1) If this letter contract is superseded by a definitive contract, unliquidated progress payments made under this letter contract shall be liquidated by deducting the amount from the first progress or other payments made under the definitive contract.

(2) If this letter contract is not superseded by a definite contract calling for the furnishing of all or part of the articles or services covered under the letter contract, unliquidated progress payments made under the letter contract shall be liquidated by deduction from the amount payable under the Termination clause.

(3) If this letter contract is partly terminated and partly superseded by a contract, the Government shall allocate the unliquidated progress payments to the terminated and unterminated portions as the Government deems equitable, and shall liquidate each portion under the relevant procedure in subparagraphs (l)(1) and (l)(2) of this clause.

(4) If the method of liquidating progress payments provided in this clause does not result in full liquidation, the Contractor shall immediately pay the unliquidated balance to the Government on demand.

(m) The amount of unliquidated progress payments shall not exceed . . . . *(specify dollar amount).*

25. Section 52.243–1 is amended by revising the introductory text; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(AUG 1987)"; by revising the first sentence of paragraph (c) of the clause; and by removing the derivation lines following "(End of clause)" to read as follows:

52.243–1 Changes—Fixed Price.

As described in 43.205(a)(1), insert the following clause. The 30–day period may be varied according to agency procedures.

* * * * *

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. * * *

* * * * *

26. Section 52.243–2 is amended by revising the introductory text; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(AUG 1987)"; by revising the first sentence of paragraph (c) of the clause; and by removing the derivation lines following "(End of clause)" to read as follows:

52.243–2 Changes—Cost-Reimbursement.

As prescribed in 43.205(b)(1), insert the following clause. The 30–day period may be varied according to agency procedures.

* * * * *

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. * * *

* * * * *

27. Section 52.243–3 is amended by revising the introductory text; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(AUG 1987)"; by revising the first sentence of paragraph (c) of the clause; and by removing the derivation lines following "(End of clause)" to read as follows:

52.243–3 Changes—Time-and-Materials or Labor-Hours.

As prescribed in 43.205(c), insert the following clause. The 30-day period may be varied according to agency procedures.

* * * * *

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. * * *

* * * * *

28. Section 52.243–4 is amended by revising the introductory text; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(AUG 1987)"; by revising the second sentence of paragraph (d) of the clause; by revising the first sentence of paragraph (e) of the clause; and by removing the derivation lines following "(End of clause)" to read as follows:

52.243–4 Changes.

As prescribed in 43.205(d), insert the following clause. The 30–day period may be varied according to agency procedures.

* * * * *

(d) * * * However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. * * *

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of proposal, unless this period is extended by the Government. * * *

* * * * *

PART 53—FORMS

29. Section 53.249 is amended by revising paragraph (a)(3) to read as follows:

53.249 Termination of contracts (SF's 1034 and 1435 through 1440).

(a) * * *

(3) SF 1436 (10/83), Settlement Proposal (Total Cost Basis). (See 49.602–1(b).) Pending publication of a new edition of SF 1436, Item 7, Section II, is revised to read "Total Costs (Items 1 thru 6)."

* * * * *

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Part VI

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 872

Medical Devices; Dental Devices Classification; Final Rule and Withdrawal of Proposed Rules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

21 CFR Part 872

[Docket No. 78N-2830]

Dental Devices; General Provisions and Classifications of 110 Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is classifying 110 dental devices. The preamble to this rule responds to comments received on the proposed regulations regarding classification of these devices. These actions are being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: September 11, 1987.

FOR FURTHER INFORMATION CONTACT: Gregory Singleton, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Table of Contents

A. Background

In the **Federal Register** of December 30, 1980 (45 FR 85962-86168), FDA published proposed regulations containing general provisions applicable to the classification of dental devices and individual proposed regulations to classify dental devices in commercial distribution into one or more of three regulatory classes: Class I (general controls), class II (performance standards), and class III (premarket approval).

In this final rule, FDA is classifying 110 devices as follows: 53 devices into class I, 42 devices into class II, 10 devices into class III, and, depending upon a variety of factors, such as intended uses or composition of the devices, 2 devices into class I or class II, 2 devices into class I or class III, and 1 device into class II or class III. To reduce printing costs, FDA is publishing the general provisions and the classifications in one final rule. FDA previously published a separate proposed classification rule and final classification rule for each device.

Classification of medical devices in commercial distribution is required by the Medical Device Amendments of 1976 (Pub. L. 94-295) (the amendments) to the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301-392). The effect of classifying a device into class I is to require that the device continue to meet only the general controls applicable to all devices. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. For a class III device not considered a new drug before the amendments that either was in commercial distribution before May 28, 1976, or that is substantially equivalent to a device that was in commercial distribution before that date, each application for premarket approval must be submitted to FDA on or before February 28, 1990, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. Devices that FDA previously regarded as new drugs, or newly offered devices that are not substantially equivalent to a device that was in commercial distribution before the amendments, are classified by statute into class III and already are required to have in effect an approved application for premarket approval. See sections 520(l) and 513(f) of the act (21 U.S.C. 360j(l), 360c(f)).

The preamble to the proposed regulations described the development of the general provisions and the proposed regulations classifying dental devices and the activities of the Dental Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, now the Dental Devices Panel (the Panel), an FDA advisory committee that makes recommendations to FDA concerning the classification of dental devices. FDA provided a period of 60 days, later extended to 90 days (March 6, 1981; 46 FR 15519), for interested persons to submit written comments on the proposals. The comments received and FDA's responses to the comments are discussed below.

In April 1985, H.R. 2177 (99th Cong. 1st Sess.) was introduced in the U.S. House of Representatives. The bill was a legislative proposal of the Department of Health and Human Services. Among other things, the bill would have (1) amended the act to eliminate the statutory category of class II, (2) made the establishment of a performance standard one of the several general controls that may be made applicable to a device, and (3) streamlined the procedure for establishing standards required by section 514 of the act. If legislation comparable to this bill becomes law, there would be only two categories of devices: class I (general controls) and class II (premarket approval, currently class III). Class II devices would be redesignated as class I devices. Because the proposed legislation contains transitional provisions that convert classifications under the current law to classifications under the proposed law, FDA is continuing to issue classification rules under the current law.

B. FDA's Priorities for Establishing Performance Standards

In the **Federal Register** of October 23, 1985 (50 FR 43060), FDA published a notice, "Policy Statement; Class III Medical Devices," announcing its policy for setting priorities for initiating proceedings to establish performance standards for medical devices classified into class II. Under the amendments, FDA is required to establish performance standards for class II devices. At this time, however, FDA does not have the resources to establish performance standards for all the devices already classified (or being classified) in class II. Under the amendments, FDA is using the regulatory controls of class I to regulate a device classified into class II until a performance standard is established under section 514 of the act (21 U.S.C. 360d) for a class II device. In the notice above FDA announced it will consider the following factors when setting priorities for establishing performance standards for class II devices:

a. The seriousness of questions concerning the safety and effectiveness of the device; the risks associated with use of the device; the significance of a device to the public health; and the present and projected use of the device;

b. The recommendations of FDA's advisory committees;

c. The impact of an FDA guideline or recommendation;

d. The effect of a Federal standard or other regulatory controls under an authority other than the act;

e. The impact of voluntary standards;

f. The impact of activities authorized under the general controls provisions of the act;

g. The effect of dissemination of information and education efforts;

h. The sufficiency of voluntary corrective actions;

i. Valid scientific evidence developed since classification;

j. The existence of a petition for reclassification;

k. The impact of any other factors that affect a device's safety or effectiveness.

C. Changes in the Name of the Dental Device Advisory Committee

FDA has periodically reorganized its advisory panels for device classification. Most recently, on April 14, 1984, FDA established the Dental Devices Panel (see 49 FR 17446; April 24, 1984). The new panel performs the same functions with respect to dental devices as did its predecessors, the Dental Device Classification Panel (1976–1978) and the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel (1978–1984). Because of several changes in the membership of the advisory committee for dental devices that occurred after the committee had made its classification recommendations, during July 1981, FDA requested the committee to review its original classification recommendations. The new committee reaffirmed all but two of the old committee's recommendations (see paragraphs 11 and 13 of this preamble for the changes).

D. Grouping of Similar Devices—Withdrawal of 67 Dental Proposed Regulations Because of Different Grouping

In this final rule, FDA has grouped together similar devices, thereby reducing the number of separate dental device classifications. FDA issued proposals on 185 devices and is issuing final classifications now on 110 devices, with 10 additional classifications planned in the future.

FDA has now grouped 89 dental devices that were the subjects of FDA's proposals as separate generic types of devices into 22 generic types of devices, thus eliminating the need for 67 final classifications. Elsewhere in this issue of the **Federal Register**, FDA is withdrawing the 67 proposed dental device classification regulations that now are unnecessary due to the new grouping of dental devices. The remaining 96 generic types of devices that were the subjects of proposals are unaffected by this regrouping. The term "generic type of device" is defined in 21 CFR 860.3(i). Dental devices that are grouped into one generic type of device do not differ significantly in purpose, design, materials, energy source, function, or any other feature related to safety or effectiveness. Consequently, similar regulatory controls are appropriate to provide reasonable assurance of the safety and effectiveness of these devices. FDA has made appropriate changes in the identification of each device being grouped in order to identify more accurately the generic type of device.

The devices being grouped differently from the proposals are identified in this preamble below under "F. LIST OF DENTAL DEVICES." Each generic type of dental device is identified with both the docket number or numbers used for that device in the proposed regulations and the section number of the Code of Federal Regulations at which its classification is being codified. A device listed in the "List of Dental Devices" that is not identified with a section number is being grouped into the generic type of device with a section number listed directly before it. (Thus, for example, *Gold based alloy for clinical use* and *Precious metal alloy for clinical use* are being grouped into the generic type of device *Gold based alloys and precious metal alloys for clinical use* (§ 872.3060)).

The new grouping of dental devices results in 118 generic types of dental devices (185 proposals minus 67 unnecessary proposals). FDA is postponing for now its final classifications of 10 generic types of electrically powered dental devices pending the agency's review of additional data concerning electrical safety (see the next section of this preamble, "E. DENTAL DEVICES NOT BEING CLASSIFIED AT THIS TIME"). Thus, the number of generic types of dental devices based on the 1980 proposals that are being classified in this rule is 108.

Also, in this final rule, FDA is codifying the classifications of two devices that, under applicable statutory procedures, need not have been subjects of proposed classification rules (see the discussions under "K. CODIFICATION OF TWO DEVICES NOT SUBJECTS OF DENTAL PROPOSED REGULATIONS"). With these two additional classifications, in this rule FDA is classifying 110 generic types of dental devices.

E. Dental Devices not Being Classified at This Time

FDA is postponing classification of the following 10 generic types of dental devices in order to review additional data on electrical safety. FDA is considering reproposing these devices for classification into class I. Because of the grouping of similar dental devices as described above, the 10 generic types of devices encompass devices that were the subjects of 20 proposed regulations. The following is a list of the 10 generic types of dental devices that are not being classified in this final rule:

Mechanical denture cleaner
Dental handpiece and accessories
Dental chair with or without operative unit
Oral irrigation unit
Dental operative unit and accessories
Powered toothbrush
AC-powered dental amalgamator
Fiber optic dental light
Heat source for bleaching teeth
Boiling water sterilizer

F. List of Dental Devices

The list below shows, for each dental device, the section of the Code of Federal Regulations at which the classification of that device is being codified (or will be codified), the docket number or numbers of any corresponding proposed classification regulation, and the final classification of the device.

The list includes the 10 generic types of dental devices for which final classification is being postponed. For each of these 10 devices, the section number of the Code of Federal Regulations is in parentheses, the name of the device is identified with footnote "2", and no final classification is provided.

Section	Device	Docket No.	Class
	SUBPART B—DIAGNOSTIC DEVICES		
872.1500	Gingival fluid measurer	78N-2831	I
872.1720	Pulp tester	78N-2834	II
872.1730	Electrode gel for pulp tester	78N-2835	I

Section	Device	Docket No.	Class
872.1740	Caries detection device	80P-0064	II [1]
872.1800	Extraoral source X-ray system	78N-2836	II
872.1810	Intraoral source X-ray system	78N-2837	II
872.1820	Dental X-ray exposure alignment device	78N-2838	I
872.1830	Cephalometer	78N-2839	II
872.1840	Dental X-ray position indicating device	78N-2840	II
872.1850	Lead-lined position indicator	78N-2841	II
872.1905	Dental X-ray film holder	78N-2842	I
	SUBPART D—PROSTHETIC DEVICES		
872.3050	Amalgam alloy	78N-2843	II
872.3060	Gold based alloys and precious metal alloys for clinical use	78N-2844	II
	Gold based alloy for clinical use	78N-2844	
	Precious metal alloy for clinical use	78N-2845	
872.3080	Mercury and alloy dispenser	78N-2846	I
(872.3100)	AC-powered dental amalgamator [2]	78N-2847	
872.3110	Dental amalgam capsule	78N-2848	I
872.3130	Performed anchor	78N-2849	I
872.3140	Resin applicator	78N-3024	I
872.3150	Articulator	78N-2850	I
872.3165	Precision attachment	78N-2851	I
	Precision attachment	78N-2851	
	Preformed bar	78N-2852	
872.3200	Resin tooth bonding agent	78N-2853	II
872.3220	Facebow	78N-2854	I
872.3240	Dental bur	78N-2855	I
872.3250	Calcium hydroxide cavity liner	78N-2856	II
872.3260	Cavity varnish	78N-2857	II
872.3275	Dental cement	78N-2858	I, II
	Dental cement	78N-2858	
	Zinc oxide eugenol	78N-2913	
872.3285	Preformed clasp	78N-2859	I
	Preformed clasp	78N-2859	
	Preformed wire clasp	78N-2860	
872.3300	Hydrophilic resin coating for dentures	78N-2861	II
872.3310	Coating material for resin fillings	78N-2862	II
872.3330	Preformed crown	78N-2863	I
872.3350	Gold or stainless steel cusp	78N-2864	I
872.3360	Preformed cusp	78N-2865	I
872.3400	Karaya and sodium borate with or without acacia denture adhesive	78N-2866	I, III
	Acacia and karaya with sodium borate denture adhesive	78N-2866	
	Karaya with sodium borate denture adhesive	78N-2873	
872.3410	Ethylene oxide homopolymer and/or carboxymethylcellulose sodium denture adhesive	78N-2867	I
	Carboxymethylcellulose sodium (40 to 100%) denture adhesive	78N-2867	
	Carboxymethylcellulose sodium (32%) and ethylene oxide homopolymer (13%) denture adhesive	78N-2869	
	Carboxymethylcellulose sodium (49%) and ethylene oxide homopolymer (21%) denture adhesive	78N-2870	
872.3420	Carboxymethylcellulose sodium and cationic polyacrylamide polymer denture adhesive	78N-2868	III
872.3450	Ethylene oxide homopolymer and/or karaya denture adhesive	78N-2871	I
	Karaya denture adhesive	78N-2871	
	Karaya and ethylene oxide homopolymer denture adhesive	78N-2872	
872.3480	Polyacrylamide polymer (modified cationic) denture adhesive	78N-2874	III
872.3490	Carboxymethylcellulose sodium and/or polyvinylmethylether maleic acid calcium-sodium double salt denture adhesive.	78N-2875	I
	Polyvinylmethylether maleic acid calcium-sodium double salt denture adhesive	78N-2875	
	Polyvinylmethylether maleic acid calcium-sodium double salt and carboxymethylcellulose sodium denture adhesive.	78N-2877	
872.3500	Polyvinylmethylether maleic anhydride (PVM-MA), acid copolymer, and carboxymethylcellulose sodium (NACMC) denture adhesive.	78N-2876	III
872.3520	OTC denture cleanser	78N-2878	I
(872.3530)	Mechanical denture cleaner [2]	78N-2879	
872.3540	OTC denture cushion or pad	78N-2880	I, III
	OTC denture cushion	78N-2880	
	OTC denture pad	78N-2881	
872.3560	OTC denture reliner	78N-2882	III
872.3570	OTC denture repair kit	78N-2883	III
872.3580	Preformed gold denture tooth	78N-2884	I
872.3590	Preformed plastic denture tooth	78N-2885	II
872.3600	Partially fabricated denture kit	78N-2866	III
872.3640	Endosseous implant	78N-2887	III
872.3645	Subperiosteal implant material	78N-2888	II
	Titanium subperiosteal implant material	78N-2888	
	Cobalt chrome molybdenum subperiosteal implant material	78N-2889	
872.3660	Impression material	78N-2890	II

Section	Device	Docket No.	Class
872.3670	Resin impression tray material	78N-2891	I
872.3680	Polytetrafluoroethylene (PTFE) vitreous carbon material	78N-2892	II
872.3690	Tooth shade resin material	78N-2893	II
872.3700	Dental mercury	78N-2894	I
872.3710	Base metal alloy	78N-2895	II
872.3730	Pantograph	78N-2897	I
872.3740	Retentive and splinting pin	78N-2898	I
872.3750	Bracket adhesive resin and tooth conditioner	78N-2899	II
872.3760	Denture relining, repairing, or rebasing resin	78N-2900	II
872.3765	Pit and fissure sealant and conditioner	78N-2901	II
872.3770	Temporary crown and bridge resin	78N-2902	II
872.3810	Root canal post	78N-2904	I
872.3820	Root canal filling resin	78N-2905	II, III
872.3830	Endodontic paper point	78N-2906	I
872.3840	Endodontic silver point	78N-2907	I
872.3850	Gutta percha	78N-2908	I
872.3890	Endodontic stabilizing splint	78N-2909	II
872.3900	Posterior artificial tooth with a metal insert	78N-2910	I
872.3910	Backing and facing for an artificial tooth	78N-2911	I
872.3920	Porcelain tooth	78N-2912	II
872.3930	Tricalcium phosphate granules for dental bone repair		III [3]
	SUBPART E—SURGICAL DEVICES		
872.4120	Bone cutting instruments and accessories	78N-2915	II
	Manual bone drill and wire driver	78N-2915	
	Powered bone drill	78N-2917	
	Rotary bone cutting handpiece	78N-2920	
	AC-powered bone saw	78N-2941	
872.4130	Intraoral dental drill	78N-2916	I
(872.4200)	Dental handpiece and accessories [2]	78N-2918	
	Air-powered dental handpiece	78N-2918	
	Belt-driven dental handpiece	78N-2919	
	Contra angle handpiece attachment	78N-2921	
	Direct drive handpiece	78N-2922	
	Foot controller for handpiece	78N-2923	
	Water-powered handpiece	78N-2924	
872.4465	Gas-powered jet injector	78N-2925	II
872.4475	Spring-powered jet injector	78N-2926	II
872.4535	Dental diamond instrument	78N-2929	I
872.4565	Dental hand instrument	78N-2931	I
	Dental hand instrument	78N-2931	
	Endodontic broach	78N-3027	
	Dental wax carver	78N-2914	
	Endodontic pulp canal file	78N-3026	
	Hand instruments for calculus removal	78N-2927	
	Dental depth gauge instrument	78N-2928	
	Plastic dental filling instrument	78N-2930	
	Dental instrument handle	78N-2932	
	Surgical tissue scissors	78N-2945	
	Orthodontic band driver	78N-2952	
	Orthodontic band pusher	78N-2954	
	Orthodontic band setter	78N-2955	
	Orthodontic bracket aligner	78N-2958	
	Orthodontic pliers	78N-2962	
	Orthodontic ligature tucking instrument	78N-2967	
	Forceps for articulation paper	78N-2990	
	Forceps for dental dressing	78N-2991	
	Dental matrix band	78N-2997	
	Matrix retainer	78N-2998	
	Mouth mirror	78N-3000	
	Dental retractor	78N-3007	
	Dental retractor accessories	78N-3008	
	Periodontic or endodontic irrigating syringe	78N-3016	
	Restorative or impression material syringe	78N-3017	
872.4600	Intraoral ligature and wire lock	78N-2933	II
(872.4620)	Fiber optic dental light [2]	78N-2934	
872.4630	Dental operating light	78N-2935	II
	Dental operating light	78N-2935	
	Surgical headlight	78N-2936	
872.4730	Dental injecting needle	78N-2937	I
872.4760	Bone plate	78N-2938	II
872.4840	Rotary scaler	78N-2942	II
872.4850	Ultrasonic scaler	78N-2943	II

Section	Device	Docket No.	Class
872.4880	Intraosseous fixation screw or wire	78N-2946	II
	Intraosseous fixation screw	78N-2946	
	Intraosseous fixation wire	78N-2948	
872.4920	Dental electrosurgical	78N-2947	II
	SUBPART F—THERAPETIC DEVICES		
872.5410	Orthodontic appliance and accessories	78N-2951	I
	Preformed orthodontic band	78N-2951	
	Orthodontic elastic band	78N-2950	
	Orthodontic band material	78N-2953	
	Orthodontic metal bracket	78N-2956	
	Orthodontic wire clamp	78N-2959	
	Preformed orthodontic space maintainer	78N-2961	
	Orthodontic expansion screw retainer	78N-2963	
	Orthodontic spring	78N-2964	
	Orthodontic tube	78N-2966	
	Orthodontic wire	78N-2968	
872.5470	Orthodontic plastic bracket	78N-2957	II
872.5500	Extraoral orthodontic headgear	78N-2960	II
872.5525	Preformed tooth positioner (proposed as § 872.5575)	78N-3025	I
872.5550	Teething ring	78N-2965	I, II
	SUBPART G—MISCELLANEOUS DEVICES		
872.6010	Abrasive device and accessories	78N-2969	I
	Abrasive disk	78N-2969	
	Guard for an abrasive disk	78N-2993	
	Abrasive point	78N-2970	
	Polishing agent strip	78N-2972	
	Polishing wheel	78N-2973	
872.6030	Oral cavity abrasive polishing agent	78N-2971	I
872.6050	Saliva absorber	78N-2974	I
	Paper saliva absorber	78N-2974	
	Cotton roll	78N-2982	
872.6070	Ultraviolet activator for polymerization	78N-2975	II
872.6080	Airbrush	78N-2976	III
872.6100	Anesthetic warmer	78N-2977	I
872.6140	Articulation paper	78N-2978	I
872.6200	Base plate shellac	78N-2979	I
(872.6250)	Dental chair with or without operative unit [2]	78N-2980	
	Dental chair with operative unit	78N-2980	
	Dental chair without operative unit	78N-2981	
872.6290	Prophylaxis cup	78N-2983	I
872.6300	Rubber dam and accessories	78N-2984	I
	Rubber dam	78N-2984	
	Rubber dam clamp	78N-2985	
	Rubber dam frame	78N-2986	
	Forceps for a rubber dam clamp	78N-2992	
872.6350	Ultraviolet detector	78N-2987	II
872.6390	Dental floss	78N-2989	I
(872.6475)	Heat source for bleaching teeth [2]	78N-2994	
(872.6510)	Oral irrigation unit [2]	78N-2996	
872.6570	Impression tube	78N-2999	I
(872.6640)	Dental operative unit and accessories [2]	78N-3002	
	Dental operative unit	78N-3002	
	Saliva ejector mouthpiece	78N-3001	
	Oral cavity evacuator	78N-2988	
	Suction operative unit	78N-3003	
	Air or water syringe unit	78N-3012	
872.6650	Massaging pick or tip for oral hygiene	78N-3004	I
	Massaging pick	78N-3004	
	Rubber tip for oral hygiene	78N-3018	
872.6660	Porcelain powder for clinical use	78N-3005	II
872.6670	Silicate Protector	78N-3006	I
(872.6710)	Boiling water sterilizer [2]	78N-3009	
872.6730	Endodontic dry heat sterilizer	78N-3011	III
872.6770	Cartridge syringe	78N-3014	II
872.6855	Manual toothbrush	78N-3019	I
(872.6865)	Powered toothbrush [2]	78N-3020	
872.6870	Disposable fluoride tray	78N-3021	I
872.6880	Preformed impression tray	78N-3022	I
872.6890	Intraoral dental wax	78N-3023	I

[1] Not proposed; classification results from FDA's decision on a reclassification petition.
[2] Classification postponed.
[3] Not proposed; statutory classification.

G. Changes in Classifications

Based on the comments received and on additional consideration of all information before the agency, FDA has placed several devices in different classes from those originally proposed. FDA's reasons for adopting classifications for these devices that differ from the proposals are provided in this preamble in the section that follows. FDA believes that it is not necessary to issue a new proposal concerning these decisions. The purpose of publishing a proposal and soliciting comments is to enable the agency to determine whether its proposed classification of a device was correct. After reviewing the comments submitted on a proposal, the agency may be persuaded that its proposed classification is incorrect. Persons interested in the classification process should therefore anticipate that in a final regulation a device may be placed in a class different from the one originally proposed. This possibility was specifically identified in the proposed general regulation on dental devices (see 45 FR 85964). In addition, many of the final classifications that differ from FDA's proposed classifications are consistent with the recommendations of the Panel. These recommendations were published in the preambles to the proposed rules and thus foreshadowed the changes now being made. Persons who disagree with the final classification of a device may petition for reclassification of the device under Subpart C of Part 860 (21 CFR Part 860).

H. Summary of Comments on Classifications and FDA's Responses

To clarify the final rule and save printing costs, FDA is responding once to comments that apply to more than one dental device. In such cases, FDA's response identifies the devices to which the comment and response apply.

1. Many comments on the proposed regulations requested that FDA classify each dental device into the class recommended by the Panel.

FDA's final classification rule accomplishes many, but not all, of the changes desired by these general comments. Of the 185 devices that were the subjects of the proposed regulations, FDA proposed to classify 108 devices (58 percent) into the class recommended by the Panel. Taking into account the Panel's later changes in its recommendations on two devices (see paragraphs 11 and 13 of this preamble) and omitting the 10 final classifications which are being postponed, in this final rule FDA is classifying about 89 percent of the devices into the class recommended by the Panel. FDA is making available (Ref. 12) in its Docket Management Branch (address below) a detailed matrix that shows for each device how the Panel's recommendations compare to FDA's proposed and final classifications.

2. Many comments requested that FDA classify into class I most of the 124 dental devices that FDA proposed to classify into class II.

FDA agrees in part and disagrees in part with the comments. For many of the 77 devices that the Panel recommended be placed in class I but which FDA proposed to classify into class II, FDA now agrees that the correct class is class I. Accordingly, in the final rule the agency is classifying many of these devices into class I. However, the Panel recommended and FDA proposed that 47 dental devices be classified into class II. For many of these 47 devices, FDA disagrees with the comments requesting that these devices be placed into class I. In the paragraphs below, FDA is providing its reasons for agreeing or disagreeing with these comments with respect to specific devices.

3. In addition to the comments discussed above in paragraphs 1 and 2, specific comments on the proposed regulations on the devices discussed below argued that the agency did not identify any substantive risks to health associated with the devices that would justify classifying them into class II, as was proposed by FDA. The section had recommended that these devices be classified into class I, with the exception of the dental diamond instrument (§ 872.4535) and hand instrument for calculus removal (Docket No. 78N–2927), which the section had recommended be classified into class II.

Comments stated that the agency cited no adverse experience data or complaint data to support the proposed classifications. The comments reasoned that the devices should be classified into class I because manufacturers have distributed these devices for many years without FDA controls and because they are safe and effective. FDA has considered these comments in the classification decisions described below.

3a. Dental x-ray exposure alignment device (§ 872.1820).

FDA now believes that the dental x-ray exposure alignment device, an accessory to a dental x-ray system, should be classified into class I. FDA proposed to classify the device into class II because of concern about improper x-ray beam alignment that, in some instances, may cause the operator of the dental x-ray system to repeat x-rays of patients. If x-rays have to be repeated, the patient would receive unnecessary radiation. However, FDA now believes that the accuracy of dental x-ray beam alignment depends almost entirely on the skills of the operator of the dental x-ray system, and only a limited portion of the risk of improper x-ray beam alignment results from the design and function of the dental x-ray exposure alignment device. FDA believes that it is unnecessary to establish performance standards for the dental x-ray exposure alignment device, because the essential portion of the risk to health of improper alignment of the x-ray beam would not be significantly reduced through establishment of a standard for the accessory device. FDA believes that the general controls of class I alone would provide reasonable assurance of the safety and effectiveness of the device. Accordingly, FDA is classifying the dental x-ray exposure alignment device into class I.

3b. Dental retractor (Docket No. 78N–3007); dental retractor accessories (Docket No. 78N–3008); and dental x-ray film holder (§ 872.1905).

FDA now believes that the three devices above should be classified into class I. FDA proposed to classify these devices into class II because of concerns about microbial contamination of the reusable devices that may cause infections in patients. FDA now believes that the essential risk to health from microbial contamination of these reusable devices is controlled by the skill and conscientiousness of the users of these devices in maintaining the cleanliness of the devices and sterilizing them between uses. FDA believes that it is unnecessary to establish performance standards for the devices above, because the essential risk to health (microbial contamination) would not be reduced through establishment of standards. FDA believes that the general controls of class I alone would provide reasonable assurance of the safety and effectiveness of these devices, particularly the controls of the current good manufacturing practice (CGMP) regulations in Part 820. Accordingly, FDA is classifying the dental retractor, dental retractor accessories, and the dental x-ray film holder into class I.

3c. Mercury and alloy dispenser (§ 872.3080) and dental amalgam capsule (§ 872.3110).

FDA now believes that the mercury and alloy dispenser and the dental amalgam capsule should be classified into class I. FDA proposed to classify the devices above into class II because of concern about the accuracy of measurements of materials by the

mercury and alloy dispenser, and concern that both devices might leak mercury that may cause toxic reactions. FDA now believes that the risk to health of patients presented by inaccurate measurements of materials by the mercury and alloy dispenser is minimal and this risk would be controlled by manufacturers' adherence to the CGMP regulations. FDA also believes that manufacturers' adherence to the CGMP regulations for these devices would control the potential for leakage of mercury from the devices that could pose a risk to health of dental practitioners. (See also paragraph 5 for a discussion of classification of dental mercury.) Thus, FDA now believes that it is unnecessary to establish performance standards for the two devices, because the devices present a low risk to health of patients, and these risks would not be significantly reduced through establishment of such standards. FDA believes that the general controls of class I alone would provide reasonable assurance of the safety and effectiveness of the two devices, particularly the controls of the CGMP regulations in Part 820. Accordingly, FDA is classifying the mercury and alloy dispenser and the amalgam capsule into class I.

3d. Intraoral dental drill (§ 872.4130) and dental diamond instrument (§ 872.4535).

FDA now believes that the intraoral dental drill and the dental diamond instrument should be classified into class I. FDA proposed to classify the devices into class II because of concerns about the strength and hardness of the intraoral dental drill and the possibility of inadequate abrasive properties of the dental diamond instrument. Both devices are intended to cut human teeth. FDA now believes that minimal risk to the health of patients would result, if the intraoral dental drill were to lack strength and hardness or if the dental diamond instrument were to lack certain abrasive properties. FDA also believes that these risks to health would be controlled through the general controls of class I, particularly manufacturers' adherence to the CGMP regulations in Part 820. FDA now believes that is is unnecessary to establish performance standards for the devices. FDA believes that the general controls of class I alone would provide reasonable assurance of the safety and effectiveness of the devices. Accordingly, FDA is classifying the intraoral dental drill and the dental diamond instrument into class I.

3e. Hand instrument for calculus removal (Docket No. 78N-2927).

FDA now believes that the hand instrument for calculus removal should be classified into class I. FDA proposed to classify the device into class II because of concern that improper design of the device might cause unnecessary trauma to gum tissue and concern that lack of biocompatibility of the device might cause adverse tissue reactions. (FDA is discussing the latter concern in paragraph 3f., below.) FDA now believes that minimal risk to health would result, if this hand-held device were to have an improper design. The device is intended for use by dental health professionals experienced in its use. Trauma to a patient's gums from use of the device is essentially controlled by the skills of the professional using it, and the device itself would rarely, if ever, be responsible for unnecessary gum trauma. Thus, FDA believes that it is unnecessary to establish performance standards to control the design of the device, because the essential portion of the risk to health of unnecessary gum trauma would not be reduced through establishment of standards for the device. FDA believes that the general controls of class I alone would provide reasonable assurance of the safety and effectiveness of the hand instrument for calculus removal. Accordingly, FDA is classifying the device into class I.

3f. FDA now believes that the devices listed below should be classified into class I. FDA proposed to classify the devices into class II because of concerns about possible bioincompatibility of the devices, resulting in adverse tissue reactions. However, FDA now believes that in 1980, when it proposed to classify these devices, the agency assigned to the devices a higher level of risk of bioincompatibility than was justified by the years of experience of dentists and patients with these devices.

Thus, FDA now believes that it is unnecessary to establish performance standards for the devices listed below to control the risk of bioincompatibility, because FDA believes that these devices present only minimal risks of bioincompatibility and that these minimal risks would not be significantly reduced through establishing performance standards for these devices due to the idiosyncratic nature of individual sensitivities. FDA believes that the general controls of class I would provide reasonable assurance of the safety and effectiveness of the devices. The labeling of a device that causes sensitivity reactions in some individuals should be so labeled, to be in compliance with the misbranding provisions (21 U.S.C. 352) of the general controls of the act. Accordingly, FDA is classifying the devices listed below in class I.

Section	Device/Docket No.
872.1730	Electrode gel for pulp tester.
872.3410	Ethylene oxide homopolymer and/or carboxymethylcellulose sodium denture adhesive.
	Carboxymethylcellulose sodium (40 to 100%) denture adhesive (Docket No. 78N-2867).
	Carboxymethylcellulose sodium (32%) and ethylene oxide homopolymer (13%) denture adhesive (Docket No. 78N-2869).
	Carboxymethylcellulose sodium (49%) and ethylene oxide homopolymer (21%) denture adhesive (Docket No. 78N-2870).
872.3450	Ethylene oxide homopolymer and/or karaya denture adhesive.
	Karayra denture adhesive (Docket No. 78N-2871).
	Karaya and ethylene oxide homopolymer denture adhesive (Docket No. 78N-2872).
872.3490	Carboxymethylcellulose sodium and/or polyvinylmethylether maleic acid calcium-sodium double salt denture adhesive.
	Polyvinylmethylether maleic acid calcium-sodium double salt denture adhesive (Docket No. 78N-2875).
	Polyvinylmethylether maleic acid calcium-sodium double salt carboxymethylcellulose sodium denture adhesive (Docket No. 78N-2877).
872.3520	OTC denture cleanser.
872.3830	Endodontic paper point.
872.3840	Endodontic silver point.
872.3850	Gutta percha.
872.4565	Dental hand instrument.
	Endodontic broach (Docket No. 78N-3027).
	Endodontic pulp canal file (Docket No. 78N-3026).
.....	Surgical tissue scissors (Docket No. 78N-2951).
872.5410	Orthodontic appliances accessories.
	Preformed orthodontic band (Docket No. 78N-2951).
	Orthodontic elastic band (Docket No. 78N-2950).
	Orthodontic band material (Docket No. 78N-2953).
	Orthodontic metal bracket (Docket No. 78N-2956).
	Orthodontic wire clamp (Docket No. 78N-2959).
	Preformed orthodontic space maintainer (Docket No. 78N-2961).
	Orthodontic expansion screw retainer (Docket No. 78N-2963).
	Orthodontic spring (Docket No. 78N-2964).
	Orthodontic tube (Docket No. 78N-2966).
	Orthodontic wire (Docket No. 78N-2968).
872.5525	Preformed tooth positioner.

Section	Device/Docket No.
872.6010	Abrasive device and accessories. Abrasive disk (Docket No. 78N-2969). Abrasive point (Docket No. 78N-2970). Polishing agent strip (Docket No. 78N-2972).
872.6030	Oral cavity abrasive polishing agent.
872.6200	Base plate shellac.

FDA advises that the devices listed above that are identified by a common docket number have been grouped. See the information under the heading "D. Grouping of Similar Devices—Withdrawal of 67 Dental Proposed Regulations Because of Different Grouping," earlier in this preamble.

4. Zinc oxide eugenol; Docket No. 78N-2913; proposed class II; § 872.3275; dental cement; proposed class II. Many comments recommended that zinc oxide eugenol be classified into class I because it has been used for a long time without any problems.

4a. Zinc oxide eugenol. FDA now believes that zinc oxide eugenol should be classified into class I. FDA proposed to classify the device into class II because of concerns about possible bioincompatibility of the device resulting in adverse tissue reactions. However, FDA now believes that in 1980, when it proposed to classify the device, the agency assigned to the device a higher level of risk of bioincompatibility than was justified by the years of experience of dentists and patients with the device. Thus, FDA now believes that it is unnecessary to establish a performance standard for zinc oxide eugenol to control the risk of bioincompatibility, because the device presents only minimal risks of bioincompatibility and that these minimal risks would not be significantly reduced through establishing a performance standard for the device due to the idiosyncratic nature of individual sensitivities. The labeling of a device that causes sensitivity reactions in some individuals should be so labeled to be in compliance with the misbranding provisions (21 U.S.C. 352) of the general controls of the act. FDA now believes that the general controls of class I alone would provide reasonable assurance of the safety and effectiveness of the device. Accordingly, FDA is classifying zinc oxide eugenol into class I.

4b. Dental cement. FDA proposed that dental cement, including zinc oxide eugenol dental cement, be classified into class II because materials used in the device should meet a generally accepted and satisfactory level of biocompatibility. FDA believes that a performance standard is necessary for dental cement other than zinc oxide eugenol, because general controls alone are insufficient to control the risks to health presented by this device. The agency believes that a performance standard would provide reasonable assurance of the safety and effectiveness of dental cement other than zinc oxide eugenol, and that sufficient information is available to establish a performance standard for dental cement other than zinc oxide eugenol.

Zinc oxide eugenol was identified in two proposed regulations (§ 872.3980, Docket No. 78N-2913 and § 872.3275, Docket No. 78N-2858). In the final rule, FDA is treating zinc oxide eugenol as a subtype of the generic type of device dental cement (§ 872.3275). Accordingly, FDA is classifying zinc oxide eugenol (including zinc oxide eugenol dental cement) into class I and classifying dental cement other than zinc oxide eugenol into class II.

5. Section 872.3700; Dental mercury; proposed class II. Comments recommended that dental mercury be classified into class I instead of class II as proposed. The comments acknowledged that elemental mercury is a poison, but stated that the risks to health presented to dentists and other dental workers are inherent in the device and would not be reduced through establishment of performance standards for the device. The comments also stated that manufacturers have voluntarily accomplished several actions to protect dentists and other dental workers from the inherent risks presented by the device, such as packaging the device in leak-proof containers and placing cautionary statements in the labeling of the device.

FDA agrees with comments urging that this device be classified into class I. As stated in the proposed regulation, FDA believes that presently there is no valid scientific evidence of systemic poisoning to patients exposed to amalgam containing mercury. FDA acknowledges that the device presents a risk to those few patients who experience allergic reactions to this material, as evidenced by rare reports of such reactions (Refs. 9, 10, and 11), and to individuals such as dentists who regularly handle dental mercury. Upon further consideration, FDA now believes that labeling for the device bearing adequate directions for use and warnings under the misbranding provisions (21 U.S.C. 352) of the general controls of the act would warn dentists about the rare risk of allergic reactions among patients and the risk of toxicity to dental health professionals. Establishing a performance standard for dental mercury would do nothing to reduce these risks. Thus, FDA believes that the general controls of class I alone are sufficient to provide reasonable assurance of the safety and effectiveness of the device and that it is unnecessary to establish performance standards for the device. Accordingly, FDA is classifying the device into class I.

6. Section 872.5550; Teething ring; proposed class I or class II depending upon the construction of the device. FDA received comments stating that (a) teething rings should not be considered a medical device, (b) problems with the use of teething rings do not exist, and (c) teething rings pose no hazards to health and, therefore, should be in class I.

FDA agrees in part and disagrees in part with these comments. With regard to the first comment, FDA has determined that it will regulate as medical devices only those teething rings (fluid-filled or solid) for which medical claims are made. Teething rings without medical claims are under the regulatory authority of the Consumer Product Safety Commission (CPSC). Most teething rings are not marketed with medical claims. Thus, the vast majority of teething rings are subject to the CPSC's jurisdiction rather than FDA's jurisdiction.

With regard to the second and third comments, FDA disagrees with the comments as applied to the fluid-filled version of this device. FDA proposed that the fluid-filled teething rings (such as one containing water) for which medical claims are made be classified into class II because FDA has received reports of microbial contamination of fluid-filled teething rings (Ref. 5). An infant who bites and ruptures a fluid-filled teething ring with contaminated contents could develop an infection. FDA continues to believe, therefore, that a performance standard is necessary to control risks to infant health if the fluid in the device is contaminated with microbes. Accordingly, FDA is classifying into class II fluid-filled teething rings for which medical claims are made.

FDA is classifying solid teething rings for which medical claims are made into class I, as proposed.

7. Section 872.4240; Rotary bone cutting handpiece; proposed class II: A comment noted that the rotary bone cutting handpiece is intended to operate at slower speeds than the regular "high speed" handpiece that FDA also

proposed to classify into class II. The comment suggested, therefore, that the rotary bone cutting handpiece should be classified into class I because it presents less risk to health than the "high speed" (air-powered) handpiece (78N-2918) and because the risk to health identified by the Panel, i.e., unnecessary trauma, cannot be controlled by a performance standard.

FDA disagrees with the comment. FDA believes that a performance standard is necessary for this device to assure that its design will not cause bone damage or tissue trauma and that the risk to health can be controlled by a performance standard. Accordingly, FDA is classifying the device into class II.

8. Section 872.4820; AC-powered bone saw; proposed class II: A comment stated that the AC-powered bone saw should be classified into class I because the risks to health identified by the Panel, i.e., the possibility of bone and tissue trauma and electrical shock, are not sufficient to warrant classification of the device into class II.

FDA disagrees with the comment. FDA believes that a performance standard is necessary for this device to assure that its design will not cause bone damage or tissue trauma. Accordingly, FDA believes that the proposed classification was correct and, therefore, is classifying the device into class II.

9. Comments on the proposed regulations classifying the devices listed below argued that the devices should be placed into class I because the agency identified no substantive risks to health associated with the devices that would justify classifying them into class II. The comments argued further that the biocompatibility concerns of the agency are unfounded and, therefore, that the statutory criteria for class II have not been met.

Section No.	Device	Class recommended by section	Class proposed by FDA
872.3310	Coating material for resin filings	II	II
872.3590	Preformed plastic denture tooth	II	II
872.3690	Tooth shade resin material	II	II
872.3750	Bracket adhesive resin and tooth conditioner	II	II
872.3760	Denture relining, repairing, or rebasing resin	II	II
872.3765	Pit and fissure sealant and conditioner	II	II
872.3770	Temporary crown and bridge resin	I	II
872.3820	Root canal filling resin	I	II
872.5470	Orthodontic plastic bracket	I	II

FDA disagrees with these comments. FDA believes that the biocompatibility and performance concerns discussed in the proposed regulations warrant classifying these devices into class II. There are numerous materials that may be used in these devices that could have an adverse effect on patients. For example, there are studies that describe the carcinogenic potential of certain materials that may be used to fabricate dental resins (Refs. 1 and 2). Because of the potentially serious risks that may be presented by exposure to various materials used in these devices, the agency believes that, except for a root canal filling resin containing chloroform, performance standards are necessary to provide reasonable assurance of the safety and effectiveness of these devices.

The agency has been informed that certain root canal filling resins in commercial distribution may contain chloroform as an ingredient. FDA believes that the safety and effectiveness of a root canal filling resin containing chloroform has not been established because chloroform may be a carcinogen. In the **Federal Register** of June 29, 1976 (41 FR 26842), FDA published a final rule declaring that any human drug or cosmetic product containing chloroform that is introduced or delivered for introduction in interstate commerce will be subject to regulatory action.

The agency believes that root canal filling resin containing chloroform presents a potential unreasonable risk of illness or injury because of possible carcinogenicity. Consequently, FDA now believes that premarket approval is necessary for root canal filling resin containing chloroform. FDA believes that general controls and performance standards are insufficient to provide reasonable assurance of the safety and effectiveness of this device when it contains chloroform and that insufficient information exists to establish a standard to provide such assurance.

Accordingly, except for root canal filling resin containing chloroform, FDA believes that the proposed classifications of the devices above are correct and is classifying the devices into class II. FDA is classifying root canal filling resin into class II when chloroform is not used as an ingredient and is classifying this device into class III when it contains chloroform.

10. The only specific comments received on the proposed classifications of the devices listed below agreed with FDA's proposals to classify the devices into class II. The comments stated that implantation of these devices may have undesirable effects on patients if improper materials are used in the devices' composition.

Docket No.	Device
78N-2888	Titanium subperiosteal implant material.
78N-2889	Cobalt chrome molybdenum implant material.

FDA agrees with the comments. For the reasons provided in the proposed regulations, FDA is classifying these devices into class II (§ 872.3645).

11. Comments on the proposed classifications of the devices listed below argued that the devices should be classified into class I rather than class II as proposed. The comments suggested that if the identifications of these devices were limited to devices of the same composition as those are being marketed with demonstrated acceptable levels of safety and effectiveness, the general controls provided by class I would be sufficient to assure their safety and effectiveness. In that case, the comments reasoned, a manufacturer intending to market a new device of this type or a device of a different composition would be required to submit to FDA a premarket notification, and FDA could place that device into a

class other than class I if it determined that class I was not sufficient to assure its safety or effectiveness.

Docket No.	Device	Class recommended by section	Class proposed by FDA
78N-2844	Gold based alloy for clinical use	II	II
78N-2845	Precious metal alloy for clinical use	II	II
78N-2851	Precision attachment	I	II
78N-2852	Preformed bar	I	II
78N-2859	Preformed clasp	I	II
78N-2860	Preformed wire clasp	II	II
78N-2849	Preformed anchor	I	II
78N-2863	Preformed crown	I	II
78N-2864	Gold and stainless steel cusp	I	II
78N-2865	Preformed cusp	I	II
78N-2884	Preformed gold denture tooth	I	II
78N-2898	Retentive and splinting pin	I	II
78N-2904	Root canal post	I	II
78N-2910	Posterior artificial teeth with metal insert	I	II

The Panel had recommended that gold based alloy for clinical use and precious metal alloy for clinical use be placed in class II in order to prevent an adverse tissue reaction if the materials used in the devices are not biocompatible. FDA still agrees with the Panel's recommendations on these two devices and, therefore, is classifying them into class II as proposed.

With respect to the classification of the other devices listed above, FDA agrees with the comments recommending that the devices be classified into class I rather than class II. The agency believes that each of these devices has maintained an acceptable level of performance based on the compositional range of the materials now being used in the devices; i.e., austenitic alloys or alloys of 75 percent or greater content of gold and metals of the platinum group. Devices of such composition have been shown to be biocompatible, inert, sufficiently strong, and otherwise safe and effective when used in the mouth. Consequently, considering that FDA will learn of new compositions of material, through premarket notification under section 510(k) of the act (21 U.S.C. 360(k)), FDA agrees that the general controls of class I are sufficient to provide reasonable assurance of the safety and effectiveness of these devices and that establishment of a performance standard for these devices is unnecessary. As suggested by the comments, FDA is changing the identification of each of these devices to state that the device is composed of austenitic alloys or alloys containing 75 percent or greater gold and metals of the platinum group.

12. Comments on the proposed regulations on the devices listed below argued that, because a performance standard administered by FDA under the Radiation Control for Health and Safety Act (42 U.S.C. 263f) already exists for each of these devices, establishing any additional performance standards under the amendments would be overregulation. The comments argued that the existing standards to which these devices are required to conform should be the sole standards for these devices.

Section	Device	Class recommended by section	Class proposed by FDA
872.1800	Extraoral source X-ray system	II	II
872.1810	Intraoral source X-ray system	II	II
872.1830	Cephalometer	II	II
872.1840	Dental X-ray position indicating device	II	II
872.1850	Lead-lined position indicator	II	II

When the only risk to health presented by a radiation-emitting device is adequately controlled by a standard under the Radiation Control and Safety Act, no other standard is needed to assure the safety and effectiveness of a medical device, and FDA will classify the device into class I. However, the devices listed above present risks to health other than those controlled by an existing standard. For example, unintended exposure to x-rays resulting from lack of effectiveness due to faulty design of the device may not be covered by an existing standard but may need to be controlled by a performance standard under section 514 of the act (21 U.S.C. 360d) to assure a device's safety and effectiveness. Accordingly, FDA is classifying each of the devices listed above into class II as proposed.

13. Comments on the proposed regulations classifying the devices listed below argued that these devices are raw materials used in the fabrication of custom devices and, therefore, should be exempt from sections 514 and 515 of the act (21 U.S.C. 360d and 360e) under the custom device exemption in section 520(b) of the act (21 U.S.C. 360j(b)). The comments further stated that none of these devices is intended for use by a patient until it is tailored by a trained professional to meet the individual needs of the patient.

Section	Device
872.1730	Electrode gel for pulp tester.
872.3050	Amalgam alloy.
872.3060	Gold based alloy for clinical use.
872.3250	Calcium hydroxide cavity liner
872.3260	Cavity varnish.
872.3275	Dental cement.

Section	Device
872.3300	Hydrophilic resin coating for dentures.
872.3310	Coating material for resin fillings.
872.3590	Preformed plastic denture tooth.
872.3660	Impression material.
872.3700	Dental mercury.
872.3710	Base metal alloy.
872.3750	Bracket adhesive resin and tooth conditioner.
872.3760	Denture relining, repairing, or rebasing resin.
872.3765	Pit and fissure sealant and conditioner.
872.3850	Gutta percha.
872.3920	Porcelain tooth.
872.5410	Orthodontic performed band.
872.6660	Porcelain powder for clinical use.
872.6890	Intraoral dental wax.

FDA disagrees with the comments. The devices listed above do not meet the requirements of the partial exemption for custom devices because (a) the devices need not necessarily deviate from an otherwise applicable performance standard or requirement prescribed by or under section 515 of the act, (b) the devices are generally available in finished form for purchase or for dispensing upon prescription, (c) the devices are offered for commercial distribution, and (d) the devices are generally available to or generally used by dentists. Thus, although these devices may be formed according to the needs of individual patients, the devices do not meet the requirements of section 520(b) of the act for an exemption from section 514 or 515.

14. Comments on the proposed regulations listed below argued that, in classifying these devices, both the Panel and FDA incorrectly used the criteria that were used by FDA's OTC Drug Review Panel in its review of these products when they were regarded as drugs. The comments argued that the criteria used for classifying devices should be different from those applied by the OTC Drug Review Panel. The comments also suggested that the devices be classified into class I, rather than class III as proposed, because of insufficient documentation that they present an actual risk to users.

Section	Device	Class recommended by section	Class proposed by FDA
872.3540	OTC denture cushion	III	III
872.3550	OTC denture pad	III	III
872.3560	OTC denture reliner	III	III
872.3570	OTC denture repair kit	III	III

FDA agrees in part and disagrees in part with the comments. FDA disagrees that the agency employed incorrect criteria when proposing to classify these devices. As stated in the proposals, the devices present a risk of illness or injury. Use of these devices may cause an improper vertical dimension of a denture which may result in increased biting forces and lead to bone loss through resorption (degeneration of the bone through gradual dissolution). The long-term irritation of oral tissue caused by an incorrect vertical dimension also could cause formation of carcinomas. FDA also disagees with the comments' assertion that FDA did not provide in the proposed regulations sufficient documentation of the health risks presented by these devices. FDA cited in the proposed regulations a summary report by the OTC Panel on Dentifrices and Dental Care Agents, May 22, 1978, showing the hazards presented by these devices (Ref. 6).

Section 872.3540; OTC denture cushion: During an open meeting of the Panel on March 12 and 13, 1979, a manufacturer presented the results of a study that showed that disposable OTC denture cushions made of wax-impregnated cotton cloth that the patient applies to the entire base of a denture before the patient inserts the denture into the mouth are safe and effective for short-term use (Ref. 7). The Panel believed that the data showed that this version of the OTC denture cushion is safe and effective; because a single layer of material is used to make the cushion, the disposable cushion is discarded after 1 day's use, and the device is intended for short-term use. Therefore, during that meeting, the Panel recommended that this version of the OTC denture cushion be classified into class I. Inadvertently, FDA did not reflect this portion of the Panel's recommendation in its proposed classifications of the OTC denture cushion and OTC denture pad. A summary of the Panel's recommendation is, however, in the administrative record for this rulemaking. FDA agrees with the recommendations of the Panel that the OTC denture cushion be classified into class I, provided that the device is made of wax-impregnated cotton cloth and is for the intended uses described above.

In the final rule, FDA has grouped the OTC denture cushion and the OTC denture pad into one generic type of device, the OTC denture cushion and pad (§ 872.3540).

Accordingly, in the final rule FDA is classifying into class I the OTC denture cushion and pad, if the device is made of wax-impregnated cotton cloth, if it is intended to be discarded after 1 day's use, and if it is intended for short-term use. FDA is classifying all other OTC denture cushions and pads, the OTC denture reliner, and the OTC denture repair kit into class III as proposed. FDA is classifying these devices into class III because these devices present potential unreasonable risks of illness or injury as described above and in the proposals, and because general controls or performance standards are insufficient to provide reasonable assurance of their safety and effectiveness.

15. Comments on the proposed regulations classifying the denture adhesives listed below said that these devices should not be identified by the names of the ingredients in them. The comments said that, by listing the specific ingredients or precentages of ingredients in the names of these devices and in their identifications, FDA is inhibiting formula improvements by subjecting denture adhesives containing different ingredients or different percentages of ingredients to extensive compliance requirements, such as submission of premarket notification and petitions for reclassification.

Docket No.	Device
78N-2866	Acacia and Karaya with sodium borate denture adhesive.
78N-2867	Carboxymethylcellulose sodium (40 to 100 percent) denture adhesive.
78N-2868	Carboxymethylcellulose sodium and cationic polyacrylamide polymer denture adhesive.
78N-2869	Carboxymethylcellulose sodium (32 percent) and ethylene oxide homopolymer (13 percent) denture adhesive.
78N-2870	Carboxymethylcellulose sodium (49 percent) and ethylene oxide homopolymer (21 percent) denture adhesive.
78N-2871	Karaya denture adhesive.
78N-2872	Karaya and ehylene oxide homopolymer denture adhesive.

Docket No.	Device
78N-2873	Karaya with sodium borate denture adhesive.
78N-2874	Polyacrylamide polymer (modified cationic) denture adhesive.
78N-2875	Polyvinylmethylether maleic acid calcium-sodium double salt denture adhesive.
78N-2876	Polyvinylmethylether maleic anhydride (PVM-MA), acid copolymer and carboxymethyl-cellulose sodium (NACMC) denture adhesive.
78N-2877	Polyvinylmethylether maleic acid calcium-sodium double salt and carboxymethyl-cellulose sodium denture adhesive.

FDA agrees in part and disagrees in part with the comments. FDA agrees that, for certain of the denture adhesives, it is unnecessary to identify the percentages of ingredients. Accordingly, in the final rule, the percentages of ingredients have been removed where possible. However, FDA believes that for certain denture adhesives, it is necessary to identify in the names of the devices and their identifications the ingredients and, for some, the percentages of the ingredients, for accurate identification of denture adhesives in commercial distibution when the device amendments were enacted. Manufacturers who intend to significantly change the formula of a commercially distributed denture adhesive are subject to a requirement of premarket notification (see § 872.3(b) of this rule).

16. Docket No. 78N-2866; Acacia and karaya with sodium borate denture adhesive; proposed class III—Docket No. 78N-2873; Karaya with sodium borate denture adhesive; proposed class III: One comment on the proposed regulations classifying these two devices argued that they have been used for a number of years with no evidence of adverse effects and recommended that the devices be classified into class I rather than class III as proposed.

FDA agrees that the devices have been used for years without reports of adverse effects. The Panel based its original recommendations, and FDA based its original proposed classifications of the two devices, on a report of an advisory committee of FDA's Bureau of Drugs (now the Center for Drugs and Biologics), the OTC Panel on Dentifrices and Dental Care Agents (Ref. 6). The report showed a lack of data concerning the safety and effectiveness of denture adhesives composed of acacia and karaya with sodium borate when the sodium borate concentration in the product ranged from 12 to 20 percent by weight. During a meeting of the Panel on March 12 and 13, 1979, another study was presented showing that a denture adhesive containing less than 12 percent by weight sodium borate is safe and effective when the device is used correctly (Ref. 3)., Following review of that presentation, the Panel recommended that the two devices be classified into class II instead of class III, because it believed that premarket approval of the devices was unnecessary. The Panel also believed that establishment of performance standards was necessary to control the level of sodium borate in the devices to ensure that this level does not exceed 12 percent by weight. Inadvertently, FDA did not incude the more recent recommendations of the Panel in the proposed classifications of the two devices. A summary of the Panel's recommendations is, however, in the administrative record for this rulemaking.

Following review of all of the information on the two devices now available, FDA is classifying into class I both the acacia and karaya with sodium borate denture adhesive and the karaya with sodium borate denture adhesive, when the level of sodium borate by weight is less than 12 percent. FDA now believes that the general controls of class I will provide reasonable assurance of the safety and effectiveness of the two devices when the level of sodium borate is less than 12 percent and that performance standards and premarket approval are unnecessary.

Because no data are available to establish the highest level of sodium borate in a denture adhesive that is safe, the agency believes that acacia and/or karaya denture adhesives with sodium borate content by weight of 12 percent or more should be classified into class III. These devices are purported or represented to be for a use (restoring dental function by affixing dentures to the gums) which is of substantial importance in preventing impairment of human health. Because long-term use of the devices may cause toxicity in the patient, the agency believes that the devices present a potential unreasonable risk of illness or injury. Premarket approval is necessary for the devices because general controls and performance standards are insufficient to provide reasonable assurance of their safety and effectiveness. Moreover, insufficient information exists to establish standards to provide such assurance. Accordingly, FDA is classifying the devices into class I when they contain less than 12 percent by weight sodium borate and into class III when they contain 12 percent or more by weight sodium borate.

17. Section 872.3640; Endosseous implant; proposed class III: One comment on the endosseous implant supported FDA's proposed classification of the device into class III, noting that the state-of-the-art is not sufficiently advanced to allow standards to be written that would provide reasonable assurance of the safety and effectiveness of the materials used in this implant.

FDA agrees that premarket approval is necessary to assure the safety and effectiveness of this device. FDA is classifying the device into class III as proposed.

18. Section 872.3890; Endodontic stabilizing splint; proposed class II: One comment on the proposed classfication of endodontic stabilizing splints argued that the device should be classified into class I because it has been used for many years with no reported problems and because the agency cited no adverse experience reports or complaint data to support classifying it into class II.

FDA disagrees with the comment. FDA believes that the risks to health identified in the proposed regulation for this device support classifying it into class II. The device is intended to be implanted into the root canal of a tooth and to extend beyond the apex of the tooth into the alveolar bone. Thus, the device comes into direct contact with a tooth, the periodontal membrane, and the bone and, therefore, may cause an adverse tissue reaction if it is not biocompatible. In addition, device breakage due to the use of faulty materials in the construction of the device could cause unnecessary trauma or loss of a tooth. Accordingly, FDA is classifying the endodontic stabilizing splint into class II as proposed.

19. Section 872.3920; Porcelain tooth; proposed class II—§ 872.6660; Porcelain powder for clinical use; proposed class II:

19a. Some comments on the proposed classifications of porcelain teeth and porcelain powder for clinical use (used to make procelain teeth) agreed that these devices should be classified into class II as proposed, because the amount of depleted uranium that is used in these devices to provide fluorescing characteristics should be controlled by a standard.

FDA agrees with the comments. During 1976, FDA collected samples and

tested porcelain teeth and porcelain powder for clinical use for levels of depleted uranium in the devices and levels of ionizing radiation emitting from them (Ref. 8). The agency found that U.S. manufacturers of these devices limit levels of depleted uranium in the devices to 300 parts per million, tye voluntary standard limit set by domestic manufacturers. Some foreign manufacturers of these devices, however, use levels of depleted uranium as high as 1,000 parts per million. Although there is no evidence that levels of depleted uranium of 300 parts per million, or less, are unsafe, FDA has suggested that manufacturers develop suitable substitute materials to provide fluorescing characteristics to replace depletion uranium. FDA believes that when these devices contain levels of depleted uranium greater than 300 parts per million, the devices present increased risks from ionizing radiation. Accordingly, FDA believes that performance standards are necessary to control the levels of depleted uranium in the devices and the levels of ionizing radiation emitted from them in order to provide reasonable assurance of their safety and effectiveness. FDA believes that the general controls of class I alone are insufficient to provide reasonable assurance of the safety and effectiveness of these devices.

19b. Some comments on the proposed classification of porcelain teeth stated that the device should be placed in class I instead of class II as proposed, because no legitimate risks to health justifying classification of the device into class II were identified in the proposed regulation. Other comments stated that there are no known risks to health from the device that can be regulated by a standard.

FDA disagrees with the comments. In the proposed regulations, FDA identified the risks to health presented by ionizing radiation emitted from radioactive material that may be present in the device. As stated above, FDA believes that these risks, can be regulated by a performance standard.

19c. Some comments on the proposed regulation classifying porcelain teeth also said that manufacturers have voluntarily limited the uranium content of the device to 300 parts per million and that, therefore, no mandatory standard is necessary.

FDA believes that a mandatory performance standard is needed to control the levels of ionizing radiation emitted by the devices. Accordingly, FDA is classifying porcelain teeth and porcelain powder for clinical use into class II as proposed.

20. Section 872.4600; Intraoral ligature and wire lock; proposed class II: A comment on the proposed classification of the intraoral ligature and wire lock stated that the device should be placed in class I rather than class II as proposed, because the risk to health presented by the device, i.e., reopening of the bone fracture if the lock breaks, could be controlled adequately by the general controls applicable to class I devices.

FDA disagrees with the comment. In the proposed regulation, FDA identified the risks to health presented by the device as infection if the device cannot be sterilized properly, reopening of the fracture if the lock breaks, and adverse tissue reaction if the materials used in the device are not biocompatible. FDA believes that the general controls of class I are insufficient to control the design of the device to assure that it can be sterilized properly, to assure that it has sufficient strength, and to assure that the materials used in it are biocompatible. Because the device is an implant that is intended to be placed in the body for an indefinite period, it is critical that these aspects of the device be adequately controlled. Accordingly, FDA is classifying the device into class II as proposed.

21. Section 872.4730; Dental injecting needle; proposed class II: A comment on the proposed classification of this device stated that it should be placed in class I rather than class II as proposed because the risk to health presented by the device, i.e., the possibility of tissue damage if needles are not sharp or straight, is not sufficient to warrant classifying the device into class II.

FDA now believes that the dental injecting needle should be classified into class I. FDA proposed to classify the device into class II because of concerns about tissue trauma if the device is constructed of inferior materials or if the device has a defective point, and possible adverse tissue reactions if the materials used in the device are not biocompatible. FDA now believes that the risk to health of patients presented by dental injecting needles that may be made of inferior materials or have defective points are minimal, and that these risks would be controlled by manufacturers' adherence to the CGMP regulations. FDA believes it is unnecessary to establish performance standards for the device to control the risk of tissue trauma. FDA now believes that in 1980, when it proposed to classify the device, the agency assigned to the device a higher level of risk of bioincompatibility than was justified by the years of experience of dentist and patients with the device. Thus, FDA now believes that it is unnecessary to establish a performance standard for the dental injecting needle to control the risk of bioincompatibility, because FDA believes that the device presents only minimal risks and that these minimal risks would not be significantly reduced through establishing performance standards for the device due to the idiosyncratic nature of individual sensitivities. The labeling of a device that cause sensitivity reactions in some individual should be so labeled to be in compliance with the misbranding provisions (21 U.S.C. 352) of the general controls of the act. FDA now believes that the general controls of class I, particularly the controls of the CGMP regulation in Part 820, would provide reasonable assurance of the safety and effectiveness of the dental injecting needle. Accordingly, FDA is classifying the device into class I.

22. Section 872.4760; Bone plate; proposed class II: A comment on the proposed classification of this device suggested that the bone plate be classified into class I instead of class II as proposed because the risk to health presented by the device, i.e., reopening of a bone fracture due to faulty construction, cannot be controlled by a performance standard.

FDA disagrees with the comment. In the proposed regulation, FDA identified the risks to health presented by the device as infection if the device cannot be sterilized properly, bone damage if the device is constructed improperly, and adverse tissue reaction if the materials used in the device are not biocompatible. The agency also noted that the device is an implant because it is intended to be placed into the body for an indefinite period. FDA believes that the general controls of class I are insufficient to control the design of the device to assure that it can be sterilized properly, to assure that it has sufficient strength, to assure that it is constructed so as to avoid bone damage, and to assure that it is constructed of materials that are biocompatible. Accordingly, FDA is classifying the device into class II as proposed.

23. Section 872. 4840; Rotary scaler; proposed class II: A comment on the proposed regulation stated that the device should be placed in class I rather than class II as proposed because the risk to health presented by the device, i.e., the possibility of damage to tooth enamel or dental pulp caused by scouring action and heat, is insufficient to warrant classifying the device into class II. The comment added that no

standard can ensure the user's skill and judgment in using the device.

FDA disagrees with the comment. The device is intended to remove calculus deposits from teeth, using a combination of mechanical vibration, abrasive, action, and pressure, without causing damage to tooth enamel or dental pulp. Although the dentist or dental hygienist controls the pressure applied, the vibration and scouring action results from the design of the device. Therefore, FDA believes that a performance standard is necessary to control the design of the surfaces of the device that are intended to remove the calculus deposits from the teeth in order to ensure that the teeth are not damaged and that the device is effective. Accordingly, FDA is classifying the device into class II as proposed.

24. Section 872.4920; Dental electrosurgical unit and accessories; proposed class II: Two comments agreed with FDA's proposed classification of this device into class II. One of the comments suggested that the American National Standards Institute/American Dental Association Specification Number 44 be reviewed to determine its propriety for adoption as a performance standard for the device.

FDA agrees with the comments regarding classification of the electrosurgical unit and accessories. Accordinly, FDA is classifying the device into class II as proposed. The existence of a voluntary standard for a device is one of the factors FDA considers in setting its priorities for establishing a performance standard for a device classified into class II. See "B. FDA's Priorities for Establishing Performance Standards." When FDA initiates proceedings to establish a performance standard for the electrosurgical unit and accessories under section 514(c)(1) of the act, FDA will publish in the **Federal Register** a notice inviting any person to submit an existing standard or an offer to develop a standard for the device. If a person submits the voluntary standard above in response to such a notice accompanied by the information specified in section 514(c)(3) of the act, FDA would consider acceptance of such an existing standard as the performance standard, as provided in section 514(d)(1)(A) of the act.

25. Section 872.5500; Extraoral orthodontic headgear; proposed class II: A comment on the proposed regulation stated that extraoral orthodontic headgear should be classified into class I rather than class II as proposed, because the agency cited no adverse experience reports involving this device. The comments said the device has been used satisfactorily for many years.

FDA disagrees with the comment. The agency has received adverse experience reports showing that use of the extraoral orthodontic headgear can cause serious injuries in young children. The facebow, when pulled out of the molar tubes, can spring back into the mouth or face of the wearer. One patient suffered irreparable injury to both eyes when the patient's sister pulled the facebow and let go of it (Ref. 4). The agency believes that the risk of this type of injury would be reduced by a performance standard that includes the requirement that a disengaging mechanism for the headgear be incorporated in the design of the device. For this reason, and for the other reasons given in the proposed regulation, FDA is classifying the device into class II as proposed.

26. Section 872.6080; Airbrush; proposed class III: A comment on the proposed regulation stated that the airbrush is not intended for dental purposes and, therefore, should not be included in the group of dental devices being classified.

As stated in the preamble to the proposed general provisions (45 FR 85965) under the heading "Products That Have Both Medical and Nonmedical Uses," FDA will regulate a product as a medical device if it is intended for a medical purpose. FDA believes that the airbrush, which is intended for use in roughening the surfaces of dental restorations in order to detect uneven areas, is intended for a medical purpose. Accordingly, FDA is classifying the device into class III as proposed.

27. Section 872.6730; Endodontic dry heat sterilizer; proposed class III: A comment on the proposed regulation suggested that the device be classified into class II instead of class III as proposed, arguing that a performance standard would ensure that the device sterilizes instruments satisfactorily, i.e., that the heat generated is adequate and evenly distributed throughout the sterilizing chamber of the device.

FDA disagrees with the comment. The studies cited in the proposed regulation raise questions concerning the effectiveness of the endodontic dry heat sterilizer. The studies indicate that the device may not sterilize instruments satisfactorily, even when the device reaches and maintains the temperature it is intended to reach. Thus, FDA believes that insufficient information exists to determine that general controls or performance standards would provide reasonable assurance of the safety and effectiveness of the device. Accordingly, FDA is classifying the device into class III as proposed.

28. Section 872.6770; Cartridge syringe; proposed class II: One comment on the proposed regulation stated that the cartridge syringe should be classified into class I rather than class II as proposed because the agency identified no risks to health presented by the device that could not be controlled by the general controls applicable to class I devices.

FDA disagrees with the comment. The agency believes that a performance standard is necessary to ensure that cartridge syringes aspirate properly to prevent injection of drugs directly into the blood vessels of patients. Accordingly, FDA is classifying the device into class II as proposed

I. Exemptions for Class I Devices

29. FDA received many general comments on the proposed classification regulations requesting the agency to grant all exemptions recommended by the Panel. Other comments requested exemptions for specific class I devices only.

29a. Exemptions from CGMP regulations. In response to comments recommending that all class I devices be exempted from the CGMP regulations, FDA is granting certain exemptions for some class I dental devices.

FDA is exempting manufacturers of 19 of the 57 class I dental devices from the CGMP regulations with respect to their manufacture of these devices, with the exception of the requirements specified in 21 CFR 820.180 and 820.198 relating to records and complaint files. As stated in the proposed regulations, the agency has determined that exemption of manufacturers of any device from §§ 820.180 and 820.198 of the CGMP regulations would not be in the public interest. Moreover, compliance with these sections is not unduly burdensome for device manufacturers. The complaint file requirements of § 820.198 ensure that device manufacturers have adequate systems for complaint investigation and followup. The general requirements concerning records in § 820.180 ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, can determine whether the manufacturer's corrective actions are adequate, and can determine whether an exemption from other sections of the CGMP regulations, if one has been granted, is still appropriate. Also, for the reasons given in the proposed regulations, these exemptions do not apply to devices that are labeled or otherwise represented as sterile.

FDA has prepared guidelines on the procedures that should be followed by persons who wish to submit petitions for exemption or variance from the device CGMP regulations. The agency announced the availability of these guidelines in a notice published in the **Federal Register** of January 18, 1980 (45 FR 3671). The guidelines assist petitioners in complying with the provisions of section 520(f)(2) of the act (21 U.S.C. 360j(f)(2)). Section 513(d)(2)(A) of the act allows FDA to approve an exemption for a device from a requirement if the agency determines that compliance with such requirement is not required to assure that the device will be safe and effective and otherwise in compliance with the act.

29b. Exemptions from requirement of premarket notification. Many comments requested that exemptions from premarket notification procedures in section 510(k) of the act and Subpart E of 21 CFR Part 807 be granted for all class I dental devices.

In this final rule, FDA is granting an exemption from the requirement of premarket notification only for the pantograph (§ 872.3730), one of 12 dental devices for which such exemptions were proposed. The remaining 11 devices have been grouped with various other dental devices for which FDA did not propose such exemptions. Elsewhere in this issue of the **Federal Register**, FDA is proposing to grant exemptions from premarket notification for 23 class I dental devices, including the 11 devices for which FDA proposed an exemption for premarket notification.

J. Classification Regulations Published to Date

The following table shows the current structure of the advisory committees involved with the classification of medical devices and a list of all proposed and final classification regulations published to date:

Panel name	Publication date in Federal Register
Circulatory System Devices Panel.	March 9, 1979, 44 FR 13284-13434 (proposals); February 5, 1980, 45 FR 7904-7921 (final regulations).
Clinical Chemistry and Clinical Toxicology Devices Panel.	February 2, 1982, 47 FR 4802-4829 (proposals).
Hematology and Pathology Devises Panel.	September 11, 1979, 44 FR 52950-53063 (proposals); September 12, 1980, 45 FR 60576-60651 (final regulations).
General Hospital and Personal Use Devices Panel.	August 24, 1979, 44 FR 49645-49954 (proposals); October 21, 1980, 45 FR 69678-69737 (final regulations).
Gastroenterology-Urology Devices Panel.	January 23, 1981, 46 FR 7562-7641 (proposals); November 23, 1983, 48 FR 53012-53029 (final regulations).
Immunology Devices Panel.	April 22, 1980, 45 FR 27204-27359 (proposals); November 9, 1982, 47 FR 50614-50840 (final regulations).
Microbiology Devices Panel.	Do.
Obstetrics-Gynecology Devices Panel.	April 3, 1979, 44 FR 19694-19971 (proposals); February 26, 1980, 45 FR 12682-12710 (final regulations).
Radiologic Devices Panel.	January 29, 1982, 47 FR 4496-4451 (proposals).
Ophthalmic Devices Panel.	January 26, 1972, 47 FR 3694-3749 (proposals).
Ear, Nose, and Throat Devices Panel.	January 22, 1982, 47 FR 3280-3325 (proposals); November 6, 1986, 51 FR 40378 (final regulations).
Dental Devices Panel.	December 30, 1980, 45 FR 85962-86168 (proposals); August 12, 1987 (final regulations).
Anesthesiology and Respiratory Therapy Devices Panel.	November 2, 1979, 44 FR 63292-63426 (proposals); July 16, 1982, 47 FR 31130-31150 (final regulations).
Neurological Devices Panel.	November 23, 1978, 43 FR 54640-55732 (proposals); September 4, 1979, 44 FR 51726-51779 (final regulations).
Orthopedic and Rehabilitation Devices Panel (Physical Medicine Devices).	August 28, 1979, 44 FR 50459-50537 (proposals); November 23, 1983, 48 FR 53032-53054 (final regulations).
Orthopedic and Rehabilitation Devices Panel (Orthopedic Devices).	July 2, 1982, 47 FR 29052-29140 (proposals).
General and Plastic Surgery Devices Panel.	January 19, 1982, 47 FR 2810-2853 (proposals).

K. Codification of Two Devices not Subjects of Dental Proposed Regulations

Statutory Classification of Tricalcium Phosphate Granules for Dental Bone Repair. The amendments include transitional provisions applicable to devices intended for human use that were considered to be new drugs before enactment of the amendments (see section 520(l)(1)(E) of the act (21 U.S.C. 360j(l)(1)(E)). The transitional provisions assure that devices formerly considered as new drugs continue to be subject to appropriate regulatory controls as the amendments are being implemented. Thus, a device previously considered a new drug is classified into class III unless the agency in response to a petition has reclassified it into class I or class II. FDA is including in this final rule (§ 872.3930) a section codifying and statutory classification into class III of a commercially distributed, transitional dental device, tricalcium phosphate granules for dental bone repair. A previous **Federal Register** notice published on December 16, 1977 (42 FR 63474) described the regulatory status of this product.

Reclassification of the Caries Detection Device. A postamendments device that is not substantially equivalent to devices marketed before the amendments is classified by statute into class III by section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)). In response to a petition under section 513(f)(2) of the act and 21 CFR Part 860 of the regulations, FDA may reclassify such a new device into class I or class II.

On September 27, 1979, FDA received a petition (Docket No. 80P-0064) requesting the agency to reclassify the caries detection device from class III to class II. In the **Federal Register** of May 2, 1980 (45 FR 29411), FDA published the recommendation of the Panel that the device be reclassified from class III to class II. The agency provided a period of 30 days for interested persons to submit written comments on the recommendation. No comments were received. FDA agreed with the Panel's recommendation that the device be reclassified. In accordance with section 513(f)(2)(C)(i) of the act and 21 CFR 860.134(b)(6) of the regulations, FDA approved the petition and, by order in the form of a letter to the petitioner dated November 18, 1982, reclassified the device from class III to class II.

FDA is codifying the reclassification of the caries detection device reclassified into class II in § 872.1740. The order and the regulation apply to any detection device which is substantially equivalent to the reclassified device. FDA determines substantial equivalence of new devices by reviewing premarket notification submissions under section 510(k) of the act and Subpart E of 21 CFR Part 807.

L. Minor Changes or Clarifications

Occasionally the agency has made minor changes in the name of a generic type of device or its identification to clarify the final regulation. The agency also is adding paragraphs in § 872.1 *Scope* to explain (1) that references in Part 872 to other regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21, unless otherwise noted; and (2) that a device that has two or more types of uses (e.g., used both as a diagnostic device and as a therapeutic device) is listed in one subpart only. The agency also is adding new § 872.3 *Effective dates of requirements for premarket approval* to explain the various effective dates for premarket approval requirements for devices classified into class III and explain why FDA also is adding new paragraph (c) in the classification regulation for each device classified into class III to declare, where applicable, the effective date for premarket approval requirements for the device.

M. References

The following information has been placed in the Dockets Management

Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Athas, W. F., et. al., "In Vitro Studies on the Carcinogenic Potential of Orthodontic Bonding Material," *Ecotoxicology and Environmental Safety*, 3:401-410, 1979.

2. Hine, C. H., et. al., "An Investigation of the Oncogenic Activity of Two Representative Epoxy Resins," *Cancer Research*, 18:20-26, 1958.

3. Cohen, Albert, "The Determinations of Plasma and Urinary Excretion Levels of Boron in Volunteers Using Rigident® Denture Retainer on a Twice Daily Basis for Sixty (60) Days," July 18, 1979 (unpublished). Presentation made to the Dental Devices Advisory Panel during a meeting of March 12 and 13, 1979.

4. Summary of adverse experiences with extraoral orthodontic headgear reported to FDA.

5. Summary of adverse experiences with liquid-filled teething rings and other data reported to FDA.

6. Summary Report on Denture Aids and Plaque Disclosants Transferred to the Bureau of Medical Devices," by the OTC Panel on Dentifrices and Dental Care Agents, 1978. Presentation to the FDA Dental Devices Advisory Panel by the WJK Corporation on EZO Denture Cushions, March 12, 1979.

8. Thompson, D. L., "Uranium in Dental Porcelain," U.S. Dept HEW, FDA, Bureau of Radiological Health, Rockville, MD 20852, HEW Publication (FDA) 76-8061, September 1976.

9. Thompson, J., and J. A. Russell, "Dermatitis Due to Mercury Following Amalgam Dental Restorations," *British Journal of Dermatology*, 82:292, 1970.

10. Shovelton, D. S., "Silver Amalgam and Mercury Allergy," *Oral Surgery, Oral Medicine, and Oral Pathology*, January 1968.

11. Juhlin, L., and S. Ohman, "Allergic Reactions to Mercury in Red Tattoos and in Mucosa Adjacent to Amalgam Fillings," *Acta Dermato Venereologica*, 48:103-105, 1968.

12. Matrix prepared by FDA showing its decisions on the 185 dental device classification proposed regulations.

N. Environmental Impact

The agency has determined under 21 CFR 25.24(e)(2) (April 26, 1985; 50 FR 16636) 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.

O. Economic Impact

FDA has carefully analyzed the economic effects of this final rule and has determined that the rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. In accordance with section 3(g)(1) of the Executive Order 12291, the impact of this final rule has been carefully analyzed, and it has been determined that the final rule does not constitute a major rule as defined in section 1(b) of the Executive Order. Rules classifying devices into class I generally maintain the status quo: These devices are now subject only to the general controls provisions of the act (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, and 360j) and, under the final rule, remain subject only to such controls either in their entirety or with certain exemptions. Devices classified into class II also remain subject only to the general controls provisions of the act unless and until an applicable performance standard is established. Similarly, devices classified into class III remain subject only to the general controls provisions of the act until an additional regulation is promulgated pursuant to section 515(b) of the act (21 U.S.C. 360e(b)) requiring that such devices have in effect approved applications for premarket approval. In accordance with section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)), devices classified by regulation into class III may remain in commercial distribution without an approved premarket approval application for 30 months following the effective date of classification of the device into class III, or for 90 days following the promulgation of a regulation under section 515(b) of the act (21 U.S.C. 360e(b)), whichever occurs later. In sum, device classification rules do not have a significant impact and are not major rules.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued before January 1, 1981, and, therefore, is exempt. In any event, the rule would not have a significant economic effect on a substantial number of small entities.

List of Subjects in 21 CFR Part 872

Dental devices, medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Chapter I of Title 21 of the Code of Federal Regulations is amended by adding new Part 872, to read as follows:

PART 872—DENTAL DEVICES

Subpart A—General Provisions

Sec.

Subpart B—Diagnostic Devices

Sec.

Subpart C—[Reserved]

Subpart D—Prosthetic Devices

Authority: Secs. 501(f), 510, 513, 515, 520, 701(a), 52 Stat. 1055, 76 Stat. 794–795 as amended, 90 Stat. 540–546, 552–559, 565–574, 576–577 (21 U.S.C. 351(f), 360, 360c, 360e, 360j, 371(a)); 21 CFR 5.10.

Subpart A—General Provisions

§ 872.1 Scope.

(a) This part sets forth the classification of dental devices intended for human use that are in commercial distribution.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 cannot show merely that the device is accurately described by the section title and identification provisions of a regulation in this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87.

(c) To avoid duplicative listings, a dental device that has two or more types of uses (e.g., used both as a diagnostic device and as a therapeutic device) is listed in one subpart only.

(d) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 872.3 Effective dates of requirement for premarket approval.

A device included in this part that is classified into class III (premarket approval) shall not be commercially distributed after the date shown in the regulation classifying the device unless the manufacturer has an approval under section 515 of the act (unless an exemption has been granted under section 520(g)(2) of the act). An approval under section 515 of the act consists of FDA's issuance of an order approving an application for premarket approval (PMA) for the device or declaring completed a product development protocol (PDP) for the device.

(a) Before FDA requires that a device commercially distributed before the enactment date of the amendments, or a device that has been found substantially equivalent to such a device, has an approval under section 515 of the act, FDA must promulgate a regulation under section 515(b) of the act requiring such approval, except as provided in paragraphs (b) and (c) of this section. Such a regulation under section 515(b) of the act shall not be effective during the grace period ending on the 90th day after its promulgation or on the last day of the 30th full calendar month after the regulation that classifies the device into class III is effective, whichever is later. See section 501(f)(2)(B) of the act. Accordingly, unless an effective date of the requirement for premarket approval is shown in the regulation for a device classified into class III in this part, the device may be commercially distributed without FDA's issuance of an order approving a PMA or declaring completed a PDP for the device. If FDA promulgates a regulation under section 515(b) of the act requiring premarket approval for a device, section 501(f)(1)(A) of the act applies to the device.

(b) Any new, not substantially equivalent, device introduced into commercial distribution on or after May 28, 1976, including a device formerly marketed that has been substantially altered, is classified by statute (section 513(f) of the act) into class III without any grace period and FDA must have issued an order approving a PMA or declaring completed a PDP for the device before the device is commercially distributed unless it is reclassified. If FDA knows that a device being commercially distributed may be a "new" device as defined in this section because of any new intended use or other reasons, FDA may codify the statutory classification of the device into class III for such new use. Accordingly, the regulation for such a class III device states that as of the enactment date of the amendments, May 28, 1976, the device must have an approval under section 515 of the act before commercial distribution.

(c) A device identified in a regulation in this part that is classified into class III and that is subject to the transitional provisions of section 520(1) of the act is automatically classified by statute into class III and must have an approval under section 515 of the act before being commercially distributed. Accordingly, the regulation for such a class III transitional device states that as of the enactment date of the amendments, May 28, 1976, the device must have an approval under section 515 of the act before commercial distribution.

Subpart B—Diagnostic Devices

§ 872.1500 Gingival fluid measurer.

(a) *Identification.* A gingival fluid measurer is a gauge device intended to measure the amount of fluid in the gingival sulcus (depression between the tooth and gums) to determine if there is a gingivitis condition.

(b) *Classification.* Class I.

§ 872.1720 Pulp tester.

(a) *Identification.* A pulp tester is an AC or battery powered device intended

to evaluate the pulpal vitality of teeth by employing high frequency current transmitted by an electrode to stimulate the nerve tissue in the dental pulp.

(b) *Classification.* Class II.

§ 872.1730 Electrode gel for pulp testers.

(a) *Identification.* An electrode gel for pulp testers is a device intended to be applied to the surface of a tooth before use of a pulp tester to aid conduction of electrical current

(b) *Classification.* Class I.

§ 872.1740 Caries detection device.

(a) *Identification.* The caries detection device is a device intended to show the existence of decay in a patient's tooth by use of electrical current.

(b) *Classification.* Class II.

§ 872.1800 Extraoral source X-ray system.

(a) *Identification.* An extraoral source X-ray system is an AC-powered device that produces X-rays and is intended for dental radiographic examination and diagnosis of diseases of the teeth, jaw, and oral structures. The X-ray source (a tube) is located outside the mouth. This generic type of device may include patient and equipment supports and component parts.

(b) *Classification.* Class II.

§ 872.1810 Intraoral source X-ray system.

(a) *Identification.* An intraoral source X-ray system is an electrically powered device that produces X-rays and is intended for dental radiographic examination and diagnosis of diseases of the teeth, jaw, and oral structures. The X-ray source (a tube) is located inside the mouth. This generic type of device may include patient and equipment supports and component parts.

(b) *Classification.* Class II.

§ 872.1820 Dental X-ray exposure alignment device.

(a) *Identification.* A dental X-ray exposure alignment device is a device intended to position X-ray film and to align the examination site with the X-ray beam.

(b) *Classification.* Class I.

§ 872.1830 Cephalometer.

(a) *Identification.* A cephalometer is a device used in dentistry during X-ray procedures. The device is intended to place and to hold a patient's head in a standard position during dental X-rays.

(b) *Classification.* Class II.

§ 872.1840 Dental X-ray position indicating device.

(a) *Identification.* A dental X-ray position indicating device is a device, such as a collimator, cone, or aperture, that is used in dental radiographic examination. The device is intended to align the examination site with the X-ray beam and to restrict the dimensions of the dental X-ray field by limiting the size of the primary X-ray beam.

(b) *Classification.* Class II.

§ 872.1850 Lead-lined position indicator.

(a) *Identification.* A lead-lined position indicator is a cone-shaped device lined with lead that is attached to a dental X-ray tube and intended to aid in positioning the tube, to prevent the misfocusing of the X-rays by absorbing divergent radiation, and to prevent leakage of radiation.

(b) *Classification.* Class II.

§ 872.1905 Dental X-ray film holder.

(a) *Identification.* A dental X-ray film holder is a device intended to position and to hold X-ray film inside the mouth.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198 with respect to complaint files.

Subpart C—[Reserved]

Subpart D—Prosthetic Devices

§ 872.3050 Amalgam alloy.

(a) *Identification.* An amalgam alloy is a device that consists of a metallic substance intended to be mixed with mercury to form filling material for treatment of dental caries.

(b) *Classification.* Class II.

§ 872.3060 Gold-based alloys and precious metal alloys for clinical use.

(a) *Identification.* Gold-based alloys and precious metal alloys for clinical use are mixtures of metals, the major components of which are gold, silver, or palladium. They also may contain a small quantity of copper or platinum. The device is intended to fabricate dental appliances, such as crowns and bridges, for patients.

(b) *Classification.* Class II

§ 872.3080 Mercury and alloy dispenser.

(a) *Identification.* A mercury and alloy dispenser is a device with a spring-activated valve intended to measure and dispense into a mixing capsule a predetermined amount of dental mercury in droplet form and a premeasured amount of alloy pellets.

(b) *Classification.* Class I.

§ 872.3110 Dental Amalgam capsule.

(a) *Identification.* A dental amalgam capsule is a container device in which silver alloy is intended to be mixed with mercury to form dental amalgam.

(b) *Classification.* Class I.

§ 872.3130 Preformed anchor.

(a) *Identification.* A preformed anchor is a device made of austenitic alloys or alloys containing 75 percent or greater gold or metals of the platinum group intended to be incorporated into a dental appliance, such as a denture, to help stabilize the appliance in the patient's mouth.

(b) *Classification.* Class I.

§ 872.3140 Resin applicator.

(a) *Identification.* A resin applicator is a brushlike device intended for use in spreading dental resin on a tooth during application of tooth shade material.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.3150 Articulator.

(a) *Identification.* An articulator is a mechanical device intended to simulate movements of a patient's upper and lower jaws. Plaster casts of the patient's teeth and gums are placed in the device to reproduce the occlusion (bite) and articulation of the patient's jaws. An articulator is intended to fit dentures or provide orthodontic treatment.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.3165 Precision attachment.

(a) *Identification.* A precision attachment or preformed bar is a device made of austenitic alloys or alloys containing 75 percent or greater gold and metals of the platinum group intended for use in prosthetic dentistry in conjunction with removable partial dentures. Various forms of the device are intended to connect a lower partial denture with another lower partial denture, to connect an upper partial denture with another upper partial denture, to connect either an upper or lower partial denture to a tooth or a

crown, or to connect a fixed bridge to a partial denture.

(b) *Classification.* Class I.

§ 872.3200 Resin tooth bonding agent.

(a) *Identification.* A resin tooth bonding agent is a device material, such as methylmethacrylate, intended to be painted on the interior of a prepared cavity of a tooth to improve retention of a restoration, such as a filling.

(b) *Classification.* Class II.

§ 872.3220 Facebow.

(a) *Identification.* A facebow is a device intended for use in denture fabrication to determine the spatial relationship between the upper and lower jaws. This determination is intended for use in placing denture casts accurately into an articulator (§ 872.3150) and thereby aiding correct placement of artificial teeth into a denture base.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.3240 Dental bur.

(a) *Identification.* A dental bur is a rotary cutting device made from carbon steel or tungsten carbide intended to cut hard structures in the mouth, such as teeth or bone. It is also intended to cut hard metals, plastics, porcelains, and similar materials intended for use in the fabrication of dental devices.

(b) *Classification.* Class I.

§ 872.3250 Calcium hydroxide cavity liner.

(a) *Identification.* A calcium hydroxide cavity liner is a device material intended to be applied to the interior of a prepared cavity before insertion of restorative material, such as amalgam, to protect the pulp of a tooth.

(b) *Classification.* Class II.

§ 872.3260 Cavity varnish.

(a) *Identification.* Cavity varnish is a device that consists of a compound intended to coat a prepared cavity of a tooth before insertion of restorative materials. The device is intended to prevent penetration of restorative materials, such as amalgam, into the dentinal tissue.

(b) *Classification.* Class II.

§ 872.3275 Dental cement.

(a) *Zinc oxide-eugenol*—(1) *Identification.* Zinc oxide-eugenol is a device composed of zinc oxide-eugenol intended to serve as a temporary tooth filling or as a base cement to affix a temporary tooth filling, to affix dental devices such as crowns or bridges, or to be applied to a tooth to protect the tooth pulp.

(2) *Classification.* Class I.

(b) *Dental cement other than zinc oxide-eugenol*—(1) *Identification.* Dental cement other than zinc oxide-eugenol is a device composed of various materials other than zinc oxide-eugenol intended to serve as a temporary tooth filling or as a base cement to affix a temporary tooth filling, to affix dental devices such as crowns or bridges, or to be applied to a tooth to protect the tooth pulp.

(2) *Classification.* Class II.

§ 872.3285 Preformed clasp.

(a) *Identification.* A preformed clasp or a preformed wire clasp is a prefabricated device made of austenitic alloys or alloys containing 75 percent or greater gold and metals of the platinum group intended to be incorporated into a dental appliance, such as a partial denture, to help stabilize the appliance in the patient's mouth by fastening the appliance to an adjacent tooth.

(b) *Classification.* Class I.

§ 872.3300 Hydrophilic resin coating for dentures.

(a) *Identification.* A hydrophilic resin coating for dentures is a device that consists of a water-retaining polymer that is intended to be applied to the base of a denture before the denture is inserted into the patient's mouth to improve denture retention and comfort.

(b) *Classification.* Class II.

§ 872.3310 Coating material for resin fillings.

(a) *Identification.* A coating material for resin fillings is a device intended to be applied to the surface of a restorative resin dental filling to attain a smooth, glaze-like finish on the surface of the filling.

(b) *Classification.* Class II.

§ 872.3330 Preformed crown.

(a) *Identification.* A preformed crown is a prefabricated device made of plastic or austenitic alloys or alloys containing 75 percent or greater gold and metals of the platinum group intended to be affixed temporarily to a tooth after removal of, or breakage of, the natural crown (that portion of the tooth that normally protrudes above the gums). It is intended for use as a functional restoration until a permanent crown is constructed. The device also may be intended for use as a functional restoration for a badly decayed deciduous (baby) tooth until the adult tooth erupts.

(b) *Classification.* Class I.

§ 872.3350 Gold or stainless steel cusp.

(a) *Identification.* A gold or stainless steel cusp is a prefabricated device made of austenitic alloys or alloys containing 75 percent or greater gold and metals of the platinum group or stainless steel intended to provide a permanent cusp (a projection on the chewing surface of a tooth) to achieve occlusal harmony (a proper bite) between the teeth and a removable denture.

(b) *Classification.* Class I.

§ 872.3360 Preformed cusp.

(a) *Identification.* A performed cusp is a prefabricated device made of plastic or austenitic alloys or alloys containing 75 percent or greater gold and metals of the platinum group intended to be used as a temporary cusp (a projection on the chewing surface of a tooth) to achieve occlusal harmony (a proper bite) before permanent restoration of a tooth.

(b) *Classification.* Class I.

§ 872.3400 Karaya and sodium borate with or without acacia denture adhesive.

(a) *Identification.* A karaya and sodium borate with or without acacia denture adhesive is a device composed of karaya and sodium borate with or without acacia intended to be applied to the base of a denture before the denture is inserted into patient's mouth to improve denture retention and comfort.

(b) *Classification.* (1) Class I if the device contains less than 12 percent by weight of sodium borate.

(2) Class III if the device contains 12 percent or more by weight of sodium borate.

(c) *Date PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval of the device described in paragraph (b)(2). See § 872.3.

§ 872.3410 Ethylene oxide homopolymer and/or carboxymethylcellulose sodium denture adhesive.

(a) *Identification.* An ethylene oxide homopolymer and/or carboxymethylcellulose sodium denture adhesive is a device containing ethylene oxide homopolymer and/or carboxymethylcellulose sodium intended to be applied to the base of a denture before the denture is inserted in a patient's mouth to improve denture retention and comfort.

(b) *Classification.* Class I.

§ 872.3420 Carboxymethylcellulose sodium and cationic polyacrylamide polymer denture adhesive.

(a) *Identification.* A carboxymethylcellulose sodium and cationic polyacrylamide polymer denture adhesive is a device composed of carboxymethylcellulose sodium and cationic polyacrylamide polymer intended to be applied to the base of a denture before the denture is inserted in a patient's mouth to improve denture retention and comfort.

(b) *Classification.* Class III.

(c) *Date PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval. See § 872.3.

§ 872.3450 Ehtylene oxide homopolymer and/or karaya denture adhesive.

(a) *Identification.* Ethylene oxide homopolymer and/or karaya denture adhesive is a device composed of ethylene oxide homopolymer and/or karaya intended to be applied to the base of a denture before the denture is inserted in a patient's mouth to improve denture retention and comfort.

(b) *Classification.* Class I.

§ 872.3480 Polyacrylamide polymer (modified cationic) denture adhesive.

(a) *Identification.* A polyacrylamide polymer (modified cationic) denture adhesive is a device composed of polyacrylamide polymer (modified cationic) intended to be applied to the base of a denture before the denture is inserted in a patient's mouth to improve denture retention and comfort.

(b) *Classification.* Class III.

(c) *Date PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval. See § 872.3.

§ 872.3490 Carboxymethylcellulose sodium and/or polyvinylmethylether maleic acid calcium-sodium double salt denture adhesive.

(a) *Identification.* A carboxymethylcellulose sodium and/or polyvinylmethylether maleic acid calcium-sodium double salt denture adhesive is a device composed of carboxymethylcellulose sodium and/or polyvinylmethylether maleic acid calcium-sodium double salt intended to be applied to the base of a denture before the denture is inserted in a patient's mouth to improve denture retention and comfort.

(b) *Classification.* Class I.

§ 872.3500 Polyvinylmethylether maleic anhydride (PVM–MA), acid copolymer, and carboxymethylcellulose sodium (NACMC) denture adhesive.

(a) *Identification.* Polyvinylmethylether maleic anhydride (PVM–MA), acid copolymer, and carboxymethylcellulose sodium (NACMC) denture adhesive is a device composed of polyvinylmethylether maleic anhydride, acid copolymer, and carboxymethylcellulose sodium intended to be applied to the base of a denture before the denture is inserted in a patient's mouth to improve denture retention and comfort.

(b) *Classification.* Class III.

(c) *Date PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval. See § 872.3.

§ 872.3520 OTC denture cleanser.

(a) *Identification.* An OTC denture cleanser is a device that consists of material in the form of a powder, tablet, or paste that is intended to remove debris from removable prosthetic dental appliances, such as bridges or dentures. The dental appliance is removed from the patient's mouth when the appliance is cleaned.

(b) *Classification.* Class I.

§ 872.3540 OTC denture cushion or pad.

(a) *Identification.* An OTC denture cushion or pad is a prefabricated or noncustom made disposable device that is intended to improve the fit of a loose or uncomfortable denture, and may be available for purchase over-the-counter.

(b) *Classification.* (1) Class I if the OTC denture cushion or pad is made of wax-impregnated cotton cloth that the patient applies to the base or inner surface of a denture before inserting the denture into the mouth. The device is intended to be discarded following 1 day's use.

(2) Class III if the OTC denture cushion or pad is made of a material other than wax-impregnated cotton cloth or if the intended use of the device differs from that described in paragraph (b) of this section.

(c) *Data PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval of the device described in paragraph (b)(2). See § 872.3.

§ 872.3560 OTC denture reliner.

(a) *Identification.* An OTC denture reliner is a device consisting of a material such as plastic resin that is intended to be applied as a permanent coating or lining on the base or tissue-contacting surface of a denture. The device is intended to replace a worn denture lining and may be available for purchase over the counter.

(b) *Classification.* Class III.

(c) *Data PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval. See § 872.3.

§ 872.3570 OTC denture repair kit.

(a) *Identification.* An OTC denture repair kit is a device consisting of a material, such as a resin monomer system of powder and liquid glues, that is intended to be applied permanently to a denture to mend cracks or breaks. The device may be available for purchase over-the counter.

(b) *Classification.* Class III.

(c) *Data PMA or notice of completion of PDP is required.* No effective date has been established of the requirement for premarket approval. See § 872.3.

§ 872.3580 Preformed gold denture tooth.

(a) *Identification.* A preformed gold denture tooth is a device composed of austenitic alloys or alloys containing 75 percent or greater gold and metals of the platinum group intended for use as a tooth or a portion of a tooth in a fixed or removable partial denture.

(b) *Classification.* Class I.

§ 872.3590 Preformed plastic dentue tooth.

(a) *Identification.* A preformed plastic denture tooth is a prefabricated device composed of materials such as methyl methacrylate, that is intended for use as a tooth in a denture.

(b) *Classification.* Class II.

§ 872.3600 Partially fabricated denture kit.

(a) *Identification.* A partially fabricated denture kit is a device composed of connected preformed teeth that is intended for use in construction of a denture. A denture base is constructed using the patient's mouth as a mold, by partially polymerizing the resin denture base materials while the materials are in contact with the oral tissues. After the denture base is constructed, the connected preformed teeth are chemically bonded to the base.

(b) *Classification.* Class III.

(c) *Data PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval. See § 872.3.

§ 872.3640 Endosseous implant.

(a) *Identification.* An endosseous implant is a device made of a material such as titanium intended to be surgically placed in the bone of the upper or lower jaw arches to provide support for prosthetic devices, such as

artificial teeth, and to restore the patient's chewing function.

(b) *Classification.* Class III.

(c) *Date PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval. See § 872.3.

§ 872.3645 Subperiosteal implant material.

(a) *Identification.* Subperiosteal implant material is a device composed of titanium or cobalt chrome molybdenum intended to construct custom prosthetic devices which are surgically implanted into the lower or upper jaw between the periosteum (connective tissue covering the bone) and supporting bony structures. The device is intended to provide support for prostheses, such as dentures.

(b) *Classification.* Class II.

§ 872.3660 Impression material.

(a) *Identification.* Impression material is a device composed of materials such as alginate or polysulfide intended to be placed on a preformed impression tray and used to reproduce the structure of a patient's teeth and gums. The device is intended to provide models for study and for production of restorative prosthetic devices, such as gold inlays and dentures.

(b) *Classification.* Class II.

§ 872.3670 Resin impression tray material.

(a) *Identification.* Resin impression tray material is a device intended for use in a two-step dental mold fabricating process. The device consists of a resin material, such as methyl methacrylate, and is used to form a custom impression tray for use in cases in which a preformed impression tray is not suitable, such as the fabrication of crowns, bridges, or full dentures. A preliminary plaster or stone model of the patient's teeth and gums is made. The resin impression tray material is applied to this preliminary study model to form a custom tray. This tray is then filled with impression material and inserted into the patient's mouth to make an impression, from which a final, more precise, model of the patient's mouth is cast.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.3680 Polytetrafluoroethylene (PTFE) vitreous carbon materials.

(a) *Identification.* Polytetrafluoroethylene (PTFE) vitreous carbon material is a device composed of polytetrafluoroethylene (PTFE) vitreous carbon intended for use in maxillofacial alveolar ridge augmentation (building up the upper or lower jaw area that contains the sockets in which teeth are rooted) or intended to cost metal surgical implants to be placed in the alveoli (sockets in which the teeth are rooted) or the temporomandibular joints (the joint between the upper and lower jaws).

(b) *Classification.* Class II.

§ 872.3690 Tooth shade resin material.

(a) *Identification.* Tooth shade resin material is a device composed of materials such as bisphenol-A glycidyl methacrylate (Bis-GMA) intended to restore carious lesions or structural defects in teeth.

(b) *Classification.* Class II.

§ 872.3700 Dental mercury.

(a) *Identification.* Dental mercury is a device composed of mercury intended for use as a component of amalgam alloy in the restoration of a dental cavity or a broken tooth.

(b) *Classification.* Class I.

§ 872.3710 Base metal alloy.

(a) *Identification.* A base metal alloy is a device composed of a material, such as a mixture of nickel and chromium, intended for use in fabrication of a custom-made dental device, such as porcelain veneer for a tooth.

(b) *Classification.* Class II.

§ 872.3730 Pantograph.

(a) *Identification.* A pantograph is a device intended to be attached to a patient's head to duplicate lower jaw movements to aid in construction of restorative and prosthetic dental devices. A marking pen is attached to the lower jaw component of the device and, as the patient's mouth opens, the pen records on graph paper the angle between the upper and the lower jaw.

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.3740 Retentive and splinting pin.

(a) *Identification.* A retentive and splinting pin is a device made of austenitic alloys or alloys containing 75 percent or greater gold and metals of the platinum group intended to be placed permanently in a tooth to provide retention and stabilization for a restoration, such as a crown, or to join two or more teeth together.

(b) *Classification.* Class I.

§ 872.3750 Bracket adhesive resin and tooth conditioner.

(a) *Identification.* A bracket adhesive resin and tooth conditioner is a device composed of an adhesive compound, such as polymethylmethacrylate, intended to cement an orthodontic bracket to a tooth surface.

(b) *Classification.* Class II.

§ 872.3760 Denture relining, repairing, or rebasing resin.

(a) *Identification.* A denture relining, repairing, or rebasing resin is a device composed of materials such as methylmethacrylate, intended to reline a denture surface that contacts tissue, to repair a fractured denture, or to form a new denture base. This device is not available for over-the-counter (OTC) use.

(b) *Classification.* Class II.

§ 872.3765 Pit and fissure sealant and conditioner.

(a) *Identification.* A pit and fissure sealant and conditioner is a device composed of resin, such as polymethylmethacrylate, intended for use primarily in young children to seal pit and fissure depressions (faults in the enamel) in the biting surfaces of teeth to prevent cavities.

(b) *Classification.* Class II.

§ 872.3770 Temporary crown and bridge resin.

(a) *Identification.* A temporary crown and bridge resin is a device composed of a material, such as polymethylmethacrylate, intended to make a temporary prosthesis, such as a crown or bridge, for use until a permanent restoration is fabricated.

(b) *Classification.* Class II.

§ 872.3810 Root canal post.

(a) *Identification.* A root canal post is a device made of austenitic alloys or alloys containing 75 percent or greater gold and metals of the platinum group intended to be cemented into the root canal of a tooth to stabilize and support a restoration.

(b) *Classification.* Class I.

§ 872.3820 Root canal filling resin.

(a) *Identification.* A root canal filling resin is a device composed of material, such as methylmethacrylate, intended for use during endodontic therapy to fill the root canal of a tooth.

(b) *Classification.* (1) Class II if chloroform is not used as an ingredient in the device.

(2) Class III if chloroform is used as an ingredient in the device.

(c) *Date PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval of the device described in paragraph (b)(2). See § 872.3.

§ 872.3830 Endodontic paper point.

(a) *Identification.* An endodontic paper point is a device made of paper intended for use during endodontic therapy to dry, or apply medication to, the root canal of a tooth.

(b) *Classification.* Class I.

§ 872.3840 Endodontic silver point.

(a) *Identification.* An endodontic silver point is a device made of silver intended for use during endodontic therapy to fill permanently the root canal of a tooth.

(b) *Classification.* Class I.

§ 872.3850 Gutta percha.

(a) *Identification.* Gutta percha is a device made from coagulated sap of certain tropical trees intended to fill the root canal of a tooth. The gutta percha is softened by heat and inserted into the root canal, where it hardens as it cools.

(b) *Classification.* Class I.

§ 872.3890 Endodontic stabilizing splint.

(a) *Identification.* An endodontic stabilizing splint is a device made of a material, such as titanium, intended to be inserted through the root canal into the upper or lower jaw bone to stabilize a tooth.

(b) *Classification.* Class II.

§ 872.3900 Posterior artificial tooth with a metal insert.

(a) *Identification.* A posterior artificial tooth with a metal insert is a porcelain device with an insert made of austenitic alloys or alloys containing 75 percent or greater gold and metals of the platinum group intended to replace a natural tooth. The device is attached to surrounding teeth by a bridge and is intended to provide both an improvement in appearance and functional occlusion (bite).

(b) *Classification.* Class I.

§ 872.3910 Backing and facing for an artificial tooth.

(a) *Identification.* A backing and facing for an artificial tooth is a device intended for use in fabrication of a fixed or removable dental appliance, such as a crown or bridge. The backing, which is made of gold, is attached to the dental appliance and supports the tooth-colored facing, which is made of porcelain or plastic.

(b) *Classification.* Class I.

§ 872.3920 Porcelain tooth.

(a) *Identification.* A porcelain tooth is a prefabricated device made of porcelain powder for clinical use (§ 872.6660) intended for use in construction of fixed or removable prostheses, such as crowns and partial dentures.

(b) *Classification.* Class II.

§ 872.3930 Tricalcium phosphate granules for dental bone repair.

(a) *Identification.* Tricalcium phosphate granules for dental bone repair is a device intended to be implanted into the upper or lower jaw to provide support for prosthetic devices.

(b) *Classification.* Class III.

(c) *Date PMA or notice of completion of a PDP is required.* As of May 28, 1976, an approval under section 515 of the act is required before this device may be commercially distributed. See § 872.3.

Subpart E—Surgical Devices

§ 872.4120 Bone cutting instrument and accessories.

(a) *Identification.* A bone cutting instrument and accessories is a metal device intended for use in reconstructive oral surgery to drill or cut into the upper or lower jaw and may be used to prepare bone to insert a wire, pin, or screw. The device includes the manual bone drill and wire driver, powered bone drill, rotary bone cutting handpiece, and AC-powered bone saw.

(b) *Classification.* Class II.

§ 872.4130 Intraoral dental drill.

(a) *Identification.* An intraoral dental drill is a rotary device intended to be attached to a dental handpiece to drill holes in teeth to secure cast or preformed pins to retain operative dental appliances.

(b) *Classification.* Class I.

§ 872.4465 Gas-powered jet injector.

(a) *Identification.* A gas-powered jet injector is a syringe device intended to administer a local anesthetic. The syringe is powered by a cartridge containing pressurized carbon dioxide which provides the pressure to force the anesthetic out of the syringe.

(b) *Classification.* Class II.

§ 872.4475 Spring-powered jet injector.

(a) *Identification.* A spring-powered jet injector is a syringe device intended to administer a local anesthetic. The syringe is powered by a spring mechanism which provides the pressure to force the anesthetic out of the syringe.

(b) *Classification.* Class II.

§ 872.4535 Dental diamond instrument.

(a) *Identification.* A dental diamond instrument is an abrasive device intended to smooth tooth surfaces during the fitting of crowns or bridges. The device consists of a shaft which is inserted into a handpiece and a head which has diamond chips imbedded into it. Rotation of the diamond instrument provides an abrasive action when it contacts a tooth.

(b) *Classification.* Class I.

§ 872.4565 Dental hand instrument.

(a) *Identification.* A dental hand instrument is a hand-held device intended to perform various tasks in general dentistry and oral surgery procedures. The device includes the operative burnisher, operative amalgam carrier, operative dental amalgam carver, surgical bone chisel, operative amalgam and foil condenser, endodontic curette, operative curette, periodontic curette, surgical curette, dental surgical elevator, operative dental excavator, operative explorer surgical bone file, operative margin finishing file, periodontic file, periodontic probe, surgical rongeur forceps, surgical tooth extractor forceps, surgical hemostat, periodontic hoe, operative matrix contouring instrument, operative cutting instrument, operative margin finishing periodontic knife, periodontic marker, operative pliers, endodontic root canal plugger, endodontic root canal preparer, surgical biopsy punch, endodontic pulp canal reamer, crown remover, periodontic scaler, collar and crown scissors, endodontic pulp canal filling material spreader, surgical osteotome chisel, endodontic broach, dental wax carver, endodontic pulp canal file, hand instrument for calculus removal, dental depth gauge instrument, plastic dental filling instrument, dental instrument handle, surgical tissue scissors, mouth mirror, orthodontic band driver, orthodontic band pusher, orthodontic band setter, orthodontic bracket aligner, orthodontic pliers, orthodontic ligature tucking instrument, forceps, for articulation paper, forceps for dental dressing, dental matrix band, matrix retainer, dental retractor, dental retractor accessories, periodontic or endodontic irrigating syringe, and restorative or impression material syringe.

(b) *Classification.* Class I.

§ 872.4600 Intraoral ligature and wire lock.

(a) *Identification.* An intraoral ligature and wire lock is a metal device intended to constrict fractured bone segments in

the oral cavity. The bone segments are stabilized by wrapping the ligature (wire) around the fractured bone segments and locking the ends together.

(b) *Classification.* Class II.

§ 872.4630 Dental operating light.

(a) *Identification.* A dental operating light, including the surgical headlight, is an AC-powered device intended to illuminate oral structures and operating areas.

(b) *Classification.* Class II.

§ 872.4730 Dental injecting needle.

(a) *Identification.* A dental injecting needle is a slender, hollow metal device with a sharp point intended to be attached to a syringe to inject local anesthetics and other drugs.

(b) *Classification.* Class I.

§ 872.4760 Bone plate.

(a) *Identification.* A bone plate is a metal device intended to stabilize fractured bone structures in the oral cavity. The bone segments are attached to the plate with screws to prevent movement of the segments.

(b) *Classification.* Class II.

§ 872.4840 Rotary scaler.

(a) *Identification.* A rotary scaler is an abrasive device intended to be attached to a powered handpiece to remove calculus deposits from teeth during dental cleaning and periodontal (gum) therapy.

(b) *Classification.* Class II.

§ 872.4850 Ultrasonic scaler.

(a) *Identification.* An ultrasonic scaler is a device intended for use during dental cleaning and periodontal (gum) therapy to remove calculus deposits from teeth by application of an ultrasonic vibrating scaler tip to the teeth.

(b) *Classification.* Class II.

§ 872.4880 Intraosseous fixation screw or wire.

(a) *Identification.* An intraosseous fixation screw or wire is a metal device intended to be inserted into fractured jaw bone segments to prevent their movement.

(b) *Classification.* Class II.

§ 872.4920 Dental electrosurgical unit and accessories.

(a) *Identification.* A dental electrosurgical unit and accessories is an AC-powered device consisting of a controlled power source and a set of cutting and coagulating electrodes. This device is intended to cut or remove soft tissue or to control bleeding during surgical procedures in the oral cavity. An electrical current passes through the tip of the electrode into the tissue and, depending upon the operating mode selected, cuts through soft tissue or coagulates the tissue.

(b) *Classification.* Class II.

§ 872.5410 Orthodontic appliance and accessories.

(a) *Identification.* An orthodontic appliance and accessories is a device intended for use in orthodontic treatment. The device is affixed to a tooth so that pressure can be exerted on the teeth. This device includes the preformed orthodontic band, orthodontic band material, orthodontic elastic band, orthodontic metal bracket, orthodontic wire clamp, preformed orthodontic space maintainer, orthodontic expansion screw retainer, orthodontic spring, orthodontic tube, and orthodontic wire.

(b) *Classification.* Class I.

§ 872.5470 Orthodontic plastic bracket.

(a) *Identification.* An orthodontic plastic bracket is a plastic device intended to be bonded to a tooth to apply pressure to a tooth from a flexible orthodontic wire to alter its position.

(b) *Classification.* Class II.

§ 872.5500 Extraoral orthodontic headgear.

(a) *Identification.* An extraoral orthodontic headgear is a device intended for use with an orthodontic appliance to exert pressure on the teeth from outside the mouth. The headgear has a strap intended to wrap around the patient's neck or head and an inner bow portion intended to be fastened to the orthodontic appliance in the patient's mouth.

(b) *Classification.* Class II.

§ 872.5525 Preformed tooth positioner.

(a) *Identification.* A preformed tooth positioner is a plastic device that is an impression of a perfected bite intended to prevent a patient's teeth from shifting position or to move teeth to a final position after orthodontic appliances (braces) have been removed. The patient bites down on the device for several hours a day to force the teeth into a final position or to maintain the teeth in their corrected position.

(b) *Classification.* Class I.

§ 872.5550 Teething ring.

(a) *Identification.* A teething ring is a divice intended for use by infants for medical purposes to soothe gums during the teething process.

(b) *Classification.* (1) Class I if the teething ring does not contain a fluid, such as water.

(2) Class II if the teething ring contains a fluid, such as water.

Subpart G—Miscellaneous Devices

§ 872.6010 Abrasive device and accessories.

(a) *Identification.* An abrasive device and accessories is a device constructed of various abrasives, such as diamond chips, that are glued to shellac-based paper. The device is intended to remove excessive restorative materials, such as gold, and to smooth rough surfaces from oral restorations, such as crowns. The device is attached to a shank that is held by a handpiece. The device includes the abrasive disk, guard for an abrasive disk, abrasive point, polishing agent strip, and polishing wheel.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.6030 Oral cavity abrasive polishing agent.

(a) *Identification.* An oral cavity abrasive polishing agent is a device in paste or powder form that contains an abrasive material, such as silica pumice, intended to remove debris from the teeth. The abrasive polish is applied to the teeth by a handpiece attachment (prophylaxis cup).

(b) *Classification.* Class I.

§ 872.6050 Saliva absorber.

(a) *Identification.* A saliva absorber is a device made of paper or cotton intended to absorb moisture from the oral cavity during dental procedures.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.6070 Ultraviolet activator for polymerization.

(a) *Identification.* An ultraviolet activator for polymerization is a device that produces ultraviolet radiation intended to polymerize (set) resinous dental pit and fissure sealants or restorative materials by transmission of light through a rod.

(b) *Classification.* Class II.

§ 872.6080 Airbrush.

(a) *Identification.* An airbrush is an AC-powered device intended for use in conjunction with articulation paper. The

device uses air-driven particles to roughen the surfaces of dential restorations. Uneven areas of the restorations are then identified by use of articulation paper. I11(b) *Classification.* Class III. I11(c) *Date PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval. See § 872.3.

§ 872.6100 Anesthetic warmer.

(a) *Identification.* An anesthetic warmer is an AC-powered device into which tubes containing anesthetic solution are intended to be placed to warm them prior to administration of the anesthetic.

(b) *Classification.* Class I.

§ 872.6140 Articulation paper.

(a) *Identification.* Articulation paper is a device composed of paper coated with an ink dye intended to be placed between the patient's upper and lower teeth when the teeth are in the bite position to locate uneven or high areas.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.6200 Base plate shellac.

(a) *Identification.* Base plant shellac is a device composed of shellac intended to rebuild the occlusal rim of full or partial dentures.

(b) *Classification.* Class I. The device is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.6290 Prophylaxis cup.

(a) *Identification.* A prophylaxis cup is a device made of rubber intended to be held by a dental handpiece and used to apply polishing agents during prophylaxis (cleaning). The dental handpiece spins the rubber cup holding the polishing agent and the user applies it to the teeth to remove debris.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.6300 Rubber dam and accessories.

(a) *Identification.* A rubber dam and accessories is a device composed of a thin sheet of latex with a hole in the center intended to isolate a tooth from fluids in the mouth duing dental procedures, such as filling a cavity preparation. The device is stretched around a tooth by inserting the tooth through the hole in the center. The device includes the rubber dam, rubber dam clamp, rubber dam frame, and forceps for a rubber dam clamp.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.6350 Ultraviolet detector.

(a) *Identification.* An ultraviolet detector is a device intended to provide a source of ultraviolet light which is used to identify otherwise invisible material, such as dental plaque, present in or on teeth.

(b) *Classification.* Class II.

§ 872.6390 Dental floss.

(a) *Identification.* Dental floss is a string-like device made of cotton or other fibers intended to remove plaque and food particles from between the teeth to reduce tooth decay. The fibers of the device may be coated with wax for easier use.

(b) *Classification.* Class I.

§ 872.6570 Impression tube.

(a) *Identification.* An impression tube is a device consisting of a hollow copper tube intended to take an impression of a single tooth. The hollow tube is filled with impression material. One end of the tube is sealed with a softened material, such as wax, the remaining end is slipped over the tooth to make the impression.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.6650 Massaging pick or tip for oral hygiene.

(a) *Identification.* A massaging pick or tip for oral hygiene is a rigid, pointed device intended to be used manually to stimulate and massage the gums to promote good periodontal (gum) condition.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.6660 Porcelain powder for clinical use.

(a) *Identification.* Porcelain powder for clinical use is a device consisting of a mixture of kaolin, felspar, quartz, or other substances intended for use in the production of artificial teeth in fixed or removable dentures, of jacket crowns, facings, and veneers. The device is used in prosthetic dentistry by heating the powder mixture to a high temperature in an oven to produce a hard prosthesis with a glass-like finish.

(b) *Classification.* Class II.

§ 872.6670 Silicate protector.

(a) *Identification.* A silicate protector is a device made of silicone intended to be applied with an absorbent tipped applicator to the surface of a new restoration to exclude temporarily fluids from its surface.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.6370 Endodontic dry heat sterilizer.

(a) *Identification.* An endodontic dry heat sterilizer is a device intended to sterilize endodontic and other dental instruments by the application of dry heat. The heat is supplied through glass beads which have been heated by electricity.

(b) *Classification.* Class III.

(c) *Date PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval. See § 872.3.

§ 872.6770 Cartridge syringe.

(a) *Identification.* A cartridge syringe is a device intended to inject anesthetic agents subcutaneously or intramuscularly. The device consists of a metal syringe body into which a disposable, previously filled, glass carpule (a cylindrical cartridge) containing anesthetic is placed. After attaching a needle to the syringe body and activating the carpule by partially

inserting the plunger on the syringe, the device is used to administer an injection to the patient.

(b) *Classification.* Class II.

§ 872.6855 Manual toothbrush.

(a) *Identification.* A manual toothbrush is a device composed of a shaft with either natural or synthetic bristles at one end intended to remove adherent plaque and food debris from the teeth to reduce tooth decay.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.6870 Disposable flouride tray.

(a) *Identification.* A disposable fluoride tray is a device made of styrofoam intended to apply fluoride topically to the teeth. To use the tray, the patient bites down on the tray which has been filled with a fluoride solution.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.6880 Preformed impression tray.

(a) *Identification.* A preformed impression tray is a metal or plastic device intended to hold impression material, such as alginate, to make an impression of a patient's teeth or alveolar process (bony tooth sockets) to reproduce the structure of a patient's teeth and gums.

(b *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 872.6890 Intraoral dental wax.

(a) *Identification.* Intraoral dental wax is a device made of wax intended to construct patterns from which custom made metal dental prostheses, such as crowns and bridges, are cast. In orthodontic dentistry, the device is intended to make a pattern of a patient's bite to make study models of the teeth.

(b) *Classification.* Class I. If the device is not labeled or otherwise represented as sterile, it is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Dated: June 15, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87-18265 Filed 8-11-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 872

[Docket No. 78N-2830 et al.]

Medical Devices; Withdrawal of 67 Proposed Rules Classifying Dental Devices

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposed rules.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing 67 proposed rules in the classification of dental devices to avoid unnecessary regulations. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule classifying 110 dental devices.

FOR FURTHER INFORMATION CONTACT: Gregory Singleton, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 30, 1980 (45 FR 85962-86168), FDA proposed to classify 185 dental devices. This action was taken as part of the agency's overall implementation of the Medical Device Amendments of 1976 (the amendments) that established a system for the regulation of medical devices for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), establishes three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness: Class I (general controls), class II (performance standards), and class III (premarket approval). The amendments also established a procedure for the agency to promulgate regulations classifying each generic type of device into one of these three classes. Persons who disagree with a final classification of a device may petition for reclassification of the device under Subpart C of 21 CFR Part 860. Because the same generic type of device may be used in different medical specialty areas (cardiovascular, general and plastic surgery, anesthesiology, etc.) under different names, and because FDA is attempting to eliminate unnecessary regulations, the agency continues to consolidate its list of generic types of devices.

FDA is withdrawing 67 of the 185 dental proposed regulations that were published on December 30, 1980. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule classifying dental devices. In that final rule, FDA is grouping 89 proposed dental devices into 22 generic types of dental devices. The term "generic type of device" is defined in 21 CFR 860.3(i). Therefore, in that final rule each of the 67 proposed devices listed below in the left column is being grouped into the generic type of device opposite in the right column. FDA is withdrawing each of the proposed regulations listed in the left column. FDA advises that summaries of any comments submitted on the 67 proposed regulations being withdrawn and FDA's responses to these comments are discussed in the final rule classifying dental devices that is being published elsewhere in this issue of the **Federal Register**. Further, as explained in that final rule, FDA is not publishing at this time classifications of certain dental devices, including 10 devices listed below, i.e., those numbered 58 through 67, for which proposals are being withdrawn. Classifications of the devices in the right column opposite the proposals numbered 58 through 67 are not being classified by FDA now.

Proposed regulations being withdrawn	Elsewhere in this issue of the Federal Register, FDA is publishing final regulations classifying these devices
1. 78N-2845 Precious metal alloy for clinical use	78N-2844 Gold based alloys and precious metal alloys for clinical use.
2. 78N-2852 Preformed bar	78N-2851 Precision attachment.
3. 78N-2913 Zinc oxide eugenol	78N-2858 Dental cement.
4. 78N-2860 Preformed wire clasp	78N-2859 Preformed clasp.
5. 78N-2873 Karaya with sodium borate denture adhesive	78N-2866 Karaya and/or acacia with 12 percent or less sodium borate denture adhesive.
6. 78N-2869 Carboxymethylcellulose sodium (32%) and ethylene oxide homopolymer (13%) denture adhesive.	78N-2867 Ethylene oxide homopolymer and/or carboxymethyl-cellulose sodium denture adhesive.
7. 78N-2870 Carboxymethylcellulose sodium (49%) and ethylene oxide homopolymer (21%) denture adhesive.	Do.
8. 78N-2872 Karaya and ethylene oxide homopolymer denture adhesive	78N-2871 Ethylene oxide homopolymer and/or karaya denture adhesive.
9. 78N-2877 Polyvinylmethylether maleic acid calcium-sodium double salt and carboxymethyl-cellulose sodium denture adhesive.	78N-2875 Carboxymethylcellose sodium and/or polyvinylmethylether maleic acid calcium-sodium double salt denture adhesive.
10. 78N-2881 OTC denture pad	78N-2880 OTC denture cushion or pad.
11. 78N-2889 Cobalt chrome molybdenum subperiosteal implant material	78N-2888 Subperiosteal implant material.
12. 78N-2917 Powered bone drill	78N-2915 Bone cutting instruments and accessories.
13. 78N-2920 Rotary bone cutting handpiece	Do.
14. 78N-2941 AC-powered bone saw	Do.
15. 78N-3027 Endodontic broach	78N-2931 Dental hand instrument.
16. 78N-2914 Dental wax carver	Do.
17. 78N-3026 Endodontic pulp canal file	Do.
18. 78N-2927 Hand instruments for calculus removal	Do.
19. 78N-2928 Dental depth gauge instrument	Do.
20. 78N-2930 Plastic dental filling instrument	Do.
21. 78N-2932 Dental instrument handle	Do.
22. 78N-2945 Surgical tissue scissors	Do.
23. 78N-2952 Orthodontic band driver	Do.
24. 78N-2954 Orthodontic band pusher	Do.
25. 78N-2955 Orthodontic band setter	Do.
26. 78N-2958 Orthodontic bracket aligner	Do.
27. 78N-2962 Orthodontic pliers	Do.
28. 78N-2967 Orthodontic ligature tucking instrument	Do.
29. 78N-2990 Forceps for articulation paper	Do.
30. 78N-2991 Forceps for dental dressing	Do.
31. 78N-2997 Dental matrix band	Do.
32. 78N-2998 Matrix retainer	Do.
33. 78N-3000 Mouth mirror	Do.
34. 78N-3007 Dental retractor	Do.
35. 78N-3008 Dental retractor accesories	Do.
36. 78N-3016 Periodontic or endodontic irrigating syringe	Do.
37. 78N-3017 Restorative or impression material syringe	Do.
38. 78N-2936 Surgical highlight	78N-2935 Dental operating light.
39. 78N-2948 Intraosseous fixation wire	78N-2946 Intraosseous fixation screw or wire.
40. 78N-2950 Orthodontic elastic band	78N-2951 Orthodontic appliance and accessories.
41. 78N-2953 Orthodontic band material	Do.

Proposed regulations being withdrawn		Elsewhere in this issue of the Federal Register, FDA is publishing final regulations classifying these devices
42. 78N-2956	Orthodontic metal bracket	Do.
43. 78N-2959	Orthodontic wire clamp	Do.
44. 78N-2961	Preformed orthodonic space maintainer	Do.
45. 78N-2963	Orthodontic expansion screw retainer	Do.
46. 78N-2964	Orthodontic spring	Do.
47. 78N-2966	Orthodontic tube	Do.
48. 78N-2968	Orthodontic wire	Do.
49. 78N-2970	Abrasive point	78N-2969 Abrasive device and accessories.
50. 78N-2972	Polishing agent strip	Do.
51. 78N-2993	Guard for an abrasive disk	Do.
52. 78N-2973	Polishing wheel	Do.
53. 78N-2982	Cotton roll	78N-2974 Saliva absorber.
54. 78N-2985	Rubber dam clamp	78N-2984 Rubber dam and accessories.
55. 78N-2986	Rubber dam frame	Do.
56. 78N-2992	Forceps for a rubber dam clamp	Do.
57. 78N-3018	Rubber tip for oral hygiene	78N-3004 Massaging pick or tip for oral hygiene.
		At this time, FDA is not publishing in the **Federal Register** final regulations on these devices
58. 78N-2919	Belt-driven dental handpiece	78N-2918 Dental handpieces and accessories.
59. 78N-2921	Contra angle handpiece attachment	Do.
60. 78N-2922	Direct drive handpiece	Do.
61. 78N-2923	Foot controller for handpiece	Do.
62. 78N-2924	Water-powered handpiece	Do.
63. 78N-2981	Dental chair without operative unit	78N-2980 Dental chair with or without operative unit.
64. 78N-3001	Saliva ejector mouthpiece	78N-3002 Dental operative unit and accessories.
65. 78N-2988	Oral cavity evacuator	Do.
66. 78N-3003	Suction operative unit	Do.
67. 78N-3012	Air or water syringe	Do.

Accordingly, to avoid unnecessary device classification regulations, the agency is withdrawing its December 30, 1980 proposals to classify the 67 dental devices in the left column above. The administrative record for each of these proposals of December 30, 1980, shall be included in the administrative record for the docket above that is opposite in the right column.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)) and under 21 CFR 5.10, the proposals that were published in the **Federal Register** of December 30, 1980, to classify 67 dental devices under the following docket numbers are withdrawn:

Docket No.	Docket No.	DocketNo.
78N-2845	78N-2927	78N-2950
78N-2852	78N-2928	78N-2953
78N-2913	78N-2930	78N-2956
78N-2860	78N-2932	78N-2959
78N-2873	78N-2945	78N-2961
78N-2869	78N-2952	78N-2963
78N-2870	78N-2954	78N-2964
78N-2872	78N-2955	78N-2966
78N-2877	78N-2958	78N-2968
78N-2881	78N-2962	78N-2970
78N-2889	78N-2967	78N-2972
78N-2917	78N-2990	78N-2993
78N-2920	78N-2991	78N-2973
78N-2941	78N-2997	78N-2982
78N-2919	78N-2998	78N-2981
78N-2921	78N-3000	78N-2985
78N-2922	78N-3007	78N-2986
78N-2923	78N-3008	78N-2992
78N-2924	78N-3016	78N-3001
78N-3027	78N-3017	78N-2988
78N-2914	78N-2936	78N-3003
78N-3026	78N-2948	78N-3012
		78N-3018

Dated: June 14, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87–18266 Filed 8–11–87; 8:45 am]

BILLING CODE 4160–01–M

federal register

Wednesday
August 12, 1987

Part VII

Department of Education

Patricia Roberts Harris Fellowships Program; Final Stipend Levels in Fiscal Year 1987; Notice

Federal Register

Wednesday
August 12, 1970

Part VII

Department of
Education

DEPARTMENT OF EDUCATION

Patricia Roberts Harris Fellowships Program

AGENCY: Department of Education.

ACTION: Notice of Final Stipend Levels for the Patricia Roberts Harris Fellowships Program in Fiscal Year 1987.

SUMMARY: The Secretary establishes a maximum twelve-month stipend level of $6,900 for fellowship recipients under the Patricia Roberts Harris Fellowships Program, Title IX, Part B of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986, 20 U.S.C. 1134d to 1134f.

EFFECTIVE DATE: These final stipend levels for the Patricia Roberts Harris Fellowships Program take effect either 45 days after publication in the **Federal Register** or later if the Congress take certain adjournments. If you want to know the effective date of these stipend levels, call or write the U.S. Department of Education contact persons.

FOR FURTHER INFORMATION CONTACT: Dr. Charles H. Miller or Barbara J. Harvey, Patricia Roberts Harris Fellowships Program, Office of Postsecondary Education, U.S. Department of Education, Division of Higher Education Incentive Programs, 400 Maryland Avenue, SW., Room 3022, ROB–3, Washington, DC 20202. Telephone: (202) 732–4395 or (202) 732–4863.

SUPPLEMENTARY INFORMATION: The Secretary establishes a maximum stipend level for the Patricia Roberts Harris Fellowships Program of $6,900 for the 1987–88 academic year. This change increases the stipend level by $2,400 from the previous level of $4,500 for academic year 1986–87.

Regulations for the program, to be superseded in part by this notice of final stipend levels, were published on June 10, 1987, 52 FR 22284, and will be codified in 34 CFR Part 649. (The institutional allowance for each recipient awarded a fellowship for a 12-month period was set under the regulations at the same level as for fellowship programs administered by the National Science Foundation, resulting in an increase from $3,900 to $6,000.)

A Notice of Proposed Stipend Levels in fiscal year 1987 was also published in the June 10 issue of the **Federal Register**, 52 FR 22286. Interested parties were provided 30 days to submit their comments on the notice to the Secretary. A summary of the comments received and the Secretary's responses to those comments are included below.

Summary of Comments and Responses

Comments. One commenter indicated that the program needed an even higher stipend than that proposed, and believed that funds would be available for it if the total appropriation were used to finance continuing students; in addition, the commenter believed that a competition held now to award new fellowships would be far too late to be effective.

A second commenter noted that the proposed stipend level would be significantly lower than those for other federal fellowship programs, and would make it difficult to attract highly qualified individuals to pursue graduate study. The commenter proposed funding only continuation fellowships at the maximum level possible within the statute and appropriation. The commenter also stated that the current stipend level of $4,500 is grossly inadequate and requires supplementation by the institution to bring it up to the level of other fellowship recipients.

Another commenter supported the proposed $6,900 stipend indicating that it represents a good compromise between the needs of the fellows and the limits of the resources available.

A fourth commenter stated that the stipend of $6,900 per year is very low compared to comparable programs administered by the National Science Foundation and a reduction in the number of competing fellowships was disturbing.

A fifth commenter objected to the proposed stipend levels as being too low and inconsistent with the Congressional intent in the reauthorized statute to raise stipends to those of other federal programs, specifically those of the National Science Foundation.

A sixth commenter stated that to continue to fund the fellowship program at a lower level is to treat it as a second class program and to imply that the fellows are less qualified or worthy than those of other Federal programs. The program would, therefore, be better served at this point by increasing the stipends of continuing fellows to the full $10,000 rather than having a competition for new awards.

Response: The Secretary has carefully considered these comments and decided that it is best to make no changes to the amendment and to conserve funds to allow a competition for new fellowships in order to maintain a continuous flow of graduate fellows into the program from those underrepresented students traditionally served by this program. A higher stipend level would severely reduce or eliminate new fellowships. Fellows who demonstrate financial need exceeding the amount of the stipend continue to be eligible for other forms of Federal financial assistance.

The Secretary has given due consideration to the intent of Congress as set forth in the statute and feels that an increase from a stipend level of $4,500 in 1986 to the proposed level of $6,900 in 1987 is consistent with the provisions of the statute and allows for additional fellowships to be awarded in 1987 to deserving students from traditionally underrepresented groups. An increase in 1987 to the maximum stipend level of $10,000 would provide no opportunities for new fellowships and would require a ratable reduction for all continuing fellows to below this maximum allowable level, given the amount of current appropriations for the program.

(20 U.S.C. 1134d–1134f)

(Catalog of Federal Domestic Assistance Number 84.094B—Graduate and Professional Study Fellowships; 84.094C—Public Service Education Fellowships)

Dated: July 28, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87–18353 Filed 8–11–87; 8:45 am]

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federal register

Wednesday
August 12, 1987

Part VIII

Department of Education

34 CFR Part 668

Student Assistance, Postsecondary Education; Appeal Procedures for Audit Determinations and Program Review Determinations; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 668

Student Assistance, Postsecondary Education; Appeal Procedures for Audit Determinations and Program Review Determinations

AGENCY: Department of Education.

ACTION: Final Regulations with invitation to comment.

SUMMARY: The Secretary of Education (Secretary) issues final regulations to specify the procedures by which institutions participating in any of the student financial assistance programs authorized under Title IV of the Higher Eucation Act of 1965, as amended (HEA), may appeal from a final audit determination or a program review determination.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register**, or later, if Congress takes certain adjournments. The Secretary does not consider the December 1, 1986 publication deadline imposed by HEA section 482(c) as applying to these regulations since he does not view these regulations as affecting the general administration of the HEA Title IV student financial assistance programs. If you want to know the effective date of these regulations, call or write to the contact person listed below.

Comments must be received on or before September 11, 1987.

ADDRESSES: Comments should be addressed to Fred Sellers, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., Regional Office Building 3, Room 4318, Washington, DC 20202. Telephone number (202) 732–4888.

FOR FURTHER INFORMATION CONTACT: Joyce R. Coates, U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue, SW., Regional Office Building 3, Room 4318, Washington, DC 20202. Telephone number (202) 732–4888.

SUPPLEMENTARY INFORMATION: The Secretary issues final regulations to implement section 487(b) of the HEA as amended by the Higher Education Amendments of 1986, Pub.L. 99–498. Section 487(b) provides that an institution that has received written notice of a final audit determination or a program review determination may seek a review of the determination by the Secretary. Under § 668.95(d) of the regulations, an institution appealing a final audit determination or final program review determination will have the burden of proving that it complied with program requirements and, in the event that the institution is appealing a questioning or disallowance of expenditures, that the expenditures were proper.

Under these regulations, the institution seeking review notifies the Department of Education official who issued the final audit determination or program review determination (designated ED official) or its desire for such review. The request must be made within 45 days of the institution's receipt of the determination. The designated ED official arranges for the review of the determination by an administrative law judge (ALJ) appointed by the Secretary for this purpose. The hearing process consists of the submission of written briefs unless the ALJ considers it necessary to conduct an oral hearing as well. Each party shall provide a copy of its brief and any accompanying materials to the opposing party simultaneously with the filing of its brief and materials with the ALJ. The ALJ appointed to the case shall conduct a hearing on the record, consisting of an orderly presentation of arguments and evidence by the parties. In the event that the decision of the ALJ is appealed by either party, the Secretary will provide final administrative review.

Under § 668.95(e)(1) (ii) and (iv) of the regulations, an institution is afforded up to an additional 45 days (i.e., the period during which it may request review) beyond the date of its receipt of the final audit determination or final program review determination in which to submit evidence. In the interest of encouraging the parties to resolve their differences before or shortly after a hearing is requested, the regulations preclude the submission of evidence by the institution which is not provided to ED by the time the hearing is requested. There is established a 30-day period following the institution's filing of its request for review during which ED may introduce new evidence, primarily so that ED may respond to any new evidence submitted by the institution.

The Secretary intends for the ALJ to apply the same rule of deference to agency interpretations of its statutes and regulations that is observed by the Federal courts. *See, e.g., Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984); *Udall v. Tallman*, 380 U.S. 1 (1965); *Bowles v. Seminole Rock Co.*, 325 U.S. 410 (1945). Under this rule, an interpretation of an agency's statute or regulations by an authorized official is generally treated as controlling unless clearly erroneous or contrary to the plain meaning of the statute or regulation at issue. An ALJ's primary function is to perform the initial fact-finding for the Department on issues raised in applicable audit appeals. *Cf.* 16 CFR 0.14 (Federal Trade Commission ALJ is fact-finder, and must exercise this function in conformity with decisions and policy directives issued by the Commission).

Rulemaking Procedures

These final regulations establish procedures by which institutions participating in any of the HEA Title IV student financial assistance programs may request a review of final audit determinations and final program review determinations. Under 5 U.S.C. 553(b)(A), agency rules of procedure are exempt from the general rulemaking requirements in that section. However, in order to permit interested parties to offer suggestions regarding these procedural rules, the Secretary is offering an opportunity for comment.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these final regulations governing appeals from final audit determinations and final program review determinations.

All comments submitted in response to these final regulations will be available for public inspection, during and after the comment period, in Room 4318, 7th and D Streets SW., Washington, DC 20202, between the hours of 8:30 AM and 4:00 PM, Monday through Friday of each week, except Federal holidays.

Based on the comments received, the Secretary may publish future amendments to these regulations. However, unless or until future amendments are issued, these final regulations will govern appeals from final audit determinations and final program review determinations.

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Executive Order 12291

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

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations will not have a significant impact on the small entities that are affected because these regulations do not impose excessive regulatory burden. These regulations are being issued to implement the changes required by the Higher Education Amendments of 1986.

Assessment of Educational Impact

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

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Student aid.

Dated: July 31, 1987.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant Program, 84.007; Guaranteed Student Loan Program, 84.032; PLUS Program, 84.032; College Work-Study Program, 84.033; Perkins Loan Program, 84.038; Pell Grant Program, 84.063; State Student Incentive Grant Program, 84.069)

The Secretary amends Part 668 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1094, and 1141, unless otherwise noted.

2. The Table of Contents of Part 668 is amended by adding a new Subpart H to read as follows:

Subpart H—Appeal Procedures for Audit Determinations and Program Review Determinations

3. Part 668 is amended by adding a new Subpart H to read as follows:

Subpart H—Appeal Procedures for Audit Determinations and Program Review Determinations

§ 668.90 Scope and purpose.

(a) This subpart establishes rules governing the appeal of an institution from a final audit determination or a final program review determination arising from an audit or program review of the institution's participation in any student financial assistance program authorized by Title IV of the Higher Education Act of 1965, as amended (HEA). (The Title IV, HEA programs are listed in § 668.1(c)).

(b) This subpart applies to any institution (as defined in § 668.1(b)) that appeals a final audit determination or final program review determination.

(c) This subpart does not apply to proceedings governed by Subpart G of this part or to a determination that—

(1) An institution fails to meet the applicable statutory definition set forth in sections 435, 481, or 1201 of the HEA, except to the extent that such a determination forms the basis of a final audit determination or a final program review determination; or

(2) An institution fails to qualify for certification to participate in the Title IV, HEA programs because it does not meet the fiscal and administrative standards set forth in Subpart B of this part, except to the extent that such a determination forms the basis of a final audit determination or a program review determination.

(Authority: 20 U.S.C. 1094)

§ 668.91 Definitions.

As used in this subpart:

"Designated ED official" means an official of the Education Department to whom the Secretary has delegated the responsibilities referred to in this subpart.

"Final audit determination" means the written notice of a determination issued by a designated ED official based on an audit of an institution's participation in any or all of the Title IV, HEA programs covered under this subpart.

"Final program review determination" means the written notice of a determination issued by a designated ED official and resulting from a program compliance review of an institution's participation in any or all of the Title IV, HEA programs covered under this subpart.

(Authority: 20 U.S.C. 1094)

§ 668.92 Request for review.

(a) An institution seeking the Secretary's review of a final audit determination or a final program review determination shall file a written request for review with the designated ED official issuing the final audit determination or final program review determination.

(b) The institution shall file its request for review and any records or materials admissible under the terms of §§ 668.95 (e) and (f) of this subpart, no later than 45 days from the date it receives the final audit determination or final program review determination.

(c) The institution shall attach to the request for review a copy of the final audit determination or final program review determination, and shall—

(1) Identify the issues and facts in dispute; and

(2) State the institution's position together with the pertinent facts and reasons supporting that position.

(Authority: 20 U.S.C. 1094)

(Approved by OMB under Control Number 1840–0592)

§ 668.93 Notification of hearing.

(a) Upon receipt of an institution's request for review, the designated ED ficial arranges for a hearing on the record before an administrative law judge.

(b) Within 30 days of the designated ED official's receipt of an institution's request for review, the administrative law judge establishes a schedule for the submission of briefs by both the institution and the designated ED official.

(c) The submission of briefs and of accompanying evidence admissible under the terms of §§ 668.95 (e) and (f) shall be scheduled to occur no later than 120 days from the date upon which the administrative law judge notifies the institution under paragraph (b) of this section.

(Authority: 20 U.S.C. 1094)

§ 668.94 Prehearing conference.

(a) In the event that the administrative law judge considers a prehearing conference necessary, he may convene a prehearing conference.

(b) The purpose of a prehearing conference is to allow the parties to settle or narrow the dispute. A prehearing conference consists of—

(1) A telephone conference call;

(2) An informal meeting of the parties with the administrative law judge; or

(3) The submission and exchange of written materials by the parties.

(c) All prehearing conferences requiring appearances by the parties shall take place in the Washington, D.C. metropolitan area.

(Authority: 20 U.S.C. 1094)

§ 668.95 Hearing on the record.

(a) A hearing on the record is a process conducted by the administrative law judge whereby an orderly presentation of arguments and evidence is made by the parties.

(b) The hearing process consists of the submission of written briefs to the administrative law judge by the institution and by the designated ED official, unless the administrative law judge determines, under paragraph (g) of this section, that an oral hearing is also necessary.

(c) Each party shall provide a copy of its brief and any accompanying materials to the opposing party simultaneously with the filing of its brief and materials with the administrative law judge.

(d) An institution requesting review of the final audit determination or final program review determination issued by the designated ED official shall have the burden of proving the following matters, as applicable—

(1) That expenditures questioned or disallowed were proper;

(2) That the institution complied with program requirements.

(e)(l) A party may submit as evidence to the administrative law judge only materials within one or more of the following categories:

(i) ED audit reports and audit work papers for audits performed by the United States Education Department Office of Inspector General.

(ii) Institutional audit work papers, records, and other materials, if the institution provide those work papers, records, or materials to ED no later than the date by which it was required to file its request for review in accordance with §668.92

(iii) ED program review reports and work papers for program reviews.

(iv) Institutional records and other materials provided to ED in response to a program review, if the records or materials were provided to ED by the institution no later than the date by which it was required to file its request for review in accordance with §668.92.

(v) Other ED records and materials if the records and materials were provided to the administrative law judge no later than 3 days after the institution's filing of its request for review.

(2) A party desiring to submit as evidence any materials described in paragraph (e)(1) of this section shall submit that evidence with its initial brief.

(f) The administrative law judge shall accept only evidence that is both admissible and timely under the terms of paragraph (e) of this section, and relevant and material to the appeal. Examples of evidence which shall be deemed irrelevant and immaterial except upon a clear showing of probative value respecting the matters described in paragraph (d) include—

(1) Evidence relating to a period of time other than the period of time-covered by the audit or program review;

(2) Evidence relating to an audit or program review of an institution other than the institution bringing the appeal, or the resolution thereof; and

(3) Evidence relating to the current practice of the institution bringing the appeal in the program areas at issue in the appeal.

(g)(l) The administrative law judge may schedule an oral argument if he determines that an oral argument is necessary to clarify the issues and the positions of the parties as presented in the parties' written submissions.

(2) In the event that an oral argument is conducted, the designated ED official shall make a transcribed record of the proceedings and shall make that record available to the institution upon its request and upon its payment of a fee consistent with that prescribed under the Department of Education Freedom of Information Act regulations (34 CFR Part 5).

(h) Any oral argument shall take place in the Washington, D.C. metropolitan area.

(i) Either party may be represented by counsel.

(Authority: 20 U.S.C. 1094)

§688.96 Authority and responsibilities of the administrative law judge.

(a) The administrative law judge regulates the course of the proceedings and the conduct of the parties following a request for review and takes all steps necessary to conduct fair and impartial proceedings.

(b) The administrative law judge is not authorized to issue subpoenas or compel discovery as provided for in the Federal Rules of Civil Procedure.

(c) The administrative law judge shall take whatever measures are appropriate to expedite the proceedings. These measures may include, but are not limited to, one or more of the following:

(1) Scheduling of conferences.

(2) Setting time limits for oral arguments and the submission of briefs.

(3) Terminating the hearing process and issuing a decision against a party if that party does not meet time limits established by the administrative law judge.

(d) The administrative law judge is bound by all applicable statutes and regulations. The administrative law judge may not—

(1) Waive applicable statutes and regulations; or

(2) Rule them invalid.

(Authority: 20 U.S.C. 1094)

§668.97 Decision of the administrative law judge.

(a) Upon review of the parties' written submissions and termination of the oral argument if one is held, the administrative law judge issues a written decision.

(b) The administrative law judge's decision states and explains whether the final audit determination or final program review determination issued by the designated ED official was supportable, in whole or in part.

(c) The administrative law judge bases any findings of fact only on evidence properly presented before him, on matters given official notice, or on facts stipulated to by the parties.

(Authority: 20 U.S.C. 1094)

§ 668.98 Appeal to the Secretary.

(a) Within 15 days of its receipt of the initial decision of the administrative law judge, a party wishing to appeal the decision shall submit a brief or other written material to the Secretary explaining why the decision of the administrative law judge should be overturned or modified.

(b) The party appealing the initial decision shall, simultaneously with its filing of the appeal, provide the opposing party with a copy of its brief or other written material.

(c) In its brief to the Secretary, the party appealing the initial decision may submit proposed findings of fact or conclusions of law. However, the proposed findings of fact must be supported by—

(1) The admissible evidence already in the record;

(2) Matters that may be given official notice; or

(3) Stipulations of the parties

(d) The opposing party shall file its response to the appeal, if any, with the Secretary within 15 days of that party's receipt of the appeal to the Secretary.

(e) The opposing party shall, simultaneously with the filing of any response, provide a copy of its response to the appeal to the party appealing the initial decision.

(f) Neither party may introduce new evidence on appeal.

(Authority: 20 U.S.C. 1094)

§ 668.99 Decision of the Secretary.

(a) Following an appeal from the administrative law judge's initial decision, the Secretary issues a decision that affirms or, for good cause shown, modifies, remands, or overturns the initial decision of the administrative law judge.

(b) If the Secretary modifies, remands, or overturns the initial decision of the administrative law judge, the Secretary issues a decision that—

(1) Includes a statement of the reasons for this action;

(2) Is provided to both parties; and

(3) Unless the decision is remanded to the administrative law judge for further review or determination of fact, becomes final upon its issuance.

(Authority: 20 U.S.C. 1094)

§ 668.100 Final decision of the Department.

(a) In the event that the initial decision of the administrative law judge is appealed, the decision of the Secretary is the final decision of the Department, unless the administrative law judge's decision is remanded by the Secretary.

(b) In the event that the initial decision of the administrative law judge is not appealed within the time limit specified in § 668.98(a), the initial decision automatically becomes the final decision of the Department.

(Authority: 20 U.S.C. 1094)

§ 668.101 Determination of filing, receipt, and submission dates.

(a) The request for review, appeals, and other written submissions referred to in this subpart may be either hand-delivered or mailed.

(b) All mailed written submissions referred to in this subpart shall be mailed by certified mail, return receipt requested.

(c) Determination of filing, receipt, or submission dates shall be based on either the date of hand-delivery or the date of receipt indicated on the original U.S. Postal Service return receipt.

(Authority: 20 U.S.C. 1094)

§ 668.102 Collection.

To the extent that the decision of the Secretary sustains the final audit determination or final program review determination, ED will take steps to collect the debt at issue or otherwise effect the determination that was the subject of the request for review.

(Authority: 20 U.S.C. 1094)

[FR Doc. 87-18352 Filed 8-11-87; 8:45 am]

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federal register

Wednesday
August 12, 1987

Part IX

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 872
Dental Devices; Proposed Exemptions From Premarket Notification; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

21 CFR Part 872

[Docket No. 86N-0007]

Dental Devices; Proposed Exemptions From Premarket Notification

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to exempt from the requirement of premarket notification, with limitations, 23 class I dental devices. Elsewhere in this issue of the **Federal Register**, FDA is issuing a final rule classifying these and other dental devices. These actions are being taken under the Medical Device Amendments of 1976 and are a step in implementing one of the goals in FDA's plan for action.

DATES: Comments by October 13, 1987. FDA is proposing that the final rule based on this proposed rule become effective 30 days after its date of publication in the **Federal Register**.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gregory Singleton, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94-295, hereinafter called the amendments) establish a comprehensive system for the regulation for medical devices intended for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), establishes three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness: Class I, general controls; class II, performance standards; and class III, premarket approval.

Section 513(d)(2)(A) of the act (21 U.S.C. 360c(d)(2)(A)) authorizes FDA to exempt, by regulation, a generic type of class I device from the requirement of, among other things, premarket notification in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR Part 807, Subpart E. Such an exemption allows manufacturers to introduce into commercial distribution devices of the generic type exempt without first submitting to FDA a premarket notification. When FDA was publishing its proposed classification regulations for preamendment devices, the agency did not routinely evaluate whether it should grant to manufacturers of such devices placed in class I an exemption from the requirement of premarket notification in section 510(k) of the act and 21 CFR Part 807, Subpart E. Generally, FDA considered such exemptions only when the advisory panels recommended the exemptions.

Recently, FDA developed criteria for exempting certain class I devices from the requirement of premarket notification, to reduce the number of premarket notifications on relatively innocuous devices while freeing agency resources for the review of more complex notifications.

The development of these criteria and the issuance of proposed and final rules exempting appropriate devices from the requirement of premarket notification in section 510(k) of the act will help implement a goal in FDA's July 1985 "A Plan for Action" (Ref. 1).

Criteria For 510(K) Exemptions

FDA is proposing to exempt a generic type of class I device from the requirement of premarket notification with the limitations described below, if FDA determines that premarket notification is not necessary for the protection of the public health. FDA may proposed to grant an exemption if both of the following criteria are met:

1. FDA has determined that the device does not have a significant history of false or misleading claims or of risks associated with inherent characteristics of the device such as device design or materials. When making these determinations, FDA may consider the frequency, persistence, cause, or seriousness of such claims or risks, or other factors.

2. FDA has determined that: (a) Characteristics of the device necessary for its safe and effective performance are well established; (b) anticipated changes in the device that are of the type that could affect safety and effectiveness will (1) be readily detectable by users by visual examination or other means, such as routine testing, e.g., testing of a clinical laboratory reagent with positive and negative controls, before causing harm; or (2) not materially increase the risk of injury, incorrect diagnosis, or ineffective treatment, and (c) that any changes in the device will not be likely to result in a change in the device's classification.

FDA will make the determinations above based on its knowledge of the device, including past experience with premarket notification and publicly available reports or studies on device performance. Based on the criteria above, FDA will place the exempted device into the same class as the class I device to which it would be substantially equivalent.

FDA may, if it has concerns only about certain types of changes in a class I device, grant a limited exemption from premarket notification for the generic type of device. A limited exemption will specify what types of changes manufacturers must continue to report to FDA. For example, FDA may exempt a device except when a manufacturer intends to use a different material.

FDA's decision to grant an exemption from the requirement of premarket notification (section 510(k) of the act) for a generic type of class I device is based upon the existing and reasonably foreseeable characteristics of commercially distributed devices within that generic type. Because FDA cannot anticipate every change in intended use or characteristic of a device that could significantly affect a device's safety or effectiveness, manufacturers of any commercially distributed class I device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification to FDA before introducing or delivering for introduction into interstate commerce for commercial distribution the device when:

(a) The device is intended for a use different from its intended use before May 28, 1976, or the device is intended for a use different from the intended use of a preamendments device to which it has been determined to be substantially equivalent; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only; or

(b) The modified device operates using a different fundamental scientific technology than that in use in the device before May 28, 1976; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using a deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology.

Application of the Criteria to Class I Dental Devices

In the proposed regulations of December 30, 1980 (45 FR 85962-86168), FDA proposed to classify preamendments dental devices in accordance with the amendments.

When FDA proposed to classify the dental devices below, the agency did not propose exemptions from the requirement of premarket notification for many of these devices. The Panel did not recommend exemptions from the requirement of premarket notification for certain of these devices. FDA agrees that full exemption from premarket notification is unjustified for these devices; however, for the efficient enforcement of the act and consistent with its policy regarding exemptions from premarket notification; FDA now is proposing to exempt from the requirement of premarket notification, with limitations, the 23 dental devices below.

Section	Device	Docket No.
872.1730	Electrode gel for pulp tester	78N-2835
872.1905	Dental X-ray film holder	78N-2842
872.3080	Mercury and alloy dispenser	78N-2846
872.3110	Dental amalgam capsule	78N-2848
872.3140	Resin applicator	78N-3024
872.3150	Articulator	78N-2850
872.3220	Facebow	78N-2854
872.3830	Endodontic paper point	78N-2906
872.3840	Endodontic silver point	78N-2907
872.3850	Gutta percha	78N-2908
872.4565	Dental hand instrument	78N-2931
872.6010	Abrasive device and accessories	78N-2969
872.6050	Saliva absorber	78N-2974
872.6200	Base plate shellac	78N-2979
872.6290	Prophylaxis cup	78N-2983
872.6300	Rubber dam and accessories	78N-2984
872.6390	Dental floss	78N-2989
872.6570	Impression tube	78N-2999
872.6650	Massaging pick or tip for oral hygiene.	78N-3004
872.6670	Silicate protector	78N-3006
872.6855	Manual toothbrush	78N-3019
872.6870	Disposable fluoride tray	78N-3021
872.6880	Preformed impression tray	78N-3022

Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule classifying the devices above in class I. FDA is proposing in this document to grant an exemption from the requirement of premarket notification for each of the devices above. However, the proposed exemptions for the dental hand instrument (§ 872.4565) and dental floss (§ 872.6390) are limited and would apply only to those devices made of the same materials that were used in the devices before May 28, 1976.

Reference

The following information has been placed in the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. "Food and Drug Administration—A Plan for Action," Public Health Service, Department of Health and Human Services, July 1985, p. 18.

Environmental Impact

The agency has determined under 21 CFR 25.24(e)(2) (April 26, 1985; 50 FR 16636) 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

FDA has carefully analyzed the economic effects of this proposed rule and has determined that the proposed rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. In accordance with section 3(g)(1) of Executive Order 12291, the impact of this proposed rule has been carefully analyzed, and it has been determined that the proposed rule does not constitute a major rule as defined in section 1(b) of the Executive Order. The devices subject to this proposed rule are now subject only to the general controls provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, and 360j), with certain exemptions. Under any final rule based on this proposal, the devices would remain subject to such controls, other than premarket notification.

Interested persons may, on or before October 13, 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.

List of Subjects in 21 CFR Part 872

Dental devices, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 872 be amended as follows:

PART 872—DENTAL DEVICES

1. The authority citation for 21 CFR Part 872 continues to read as follows:

Authority: Secs. 501(f), 510, 513, 515, 520, 701(a), 52 Stat. 1055, 76 Stat. 794–795 as amended, 90 Stat. 540–546, 552–559, 565–574, 576–577 (21 U.S.C. 351(f), 360, 360c, 360e, 360j, 371(a)); 21 CFR 5.10.

2. Part 872 is amended by adding new § 872.9, to read as follows:

§ 872.9 Limitations of exemptions from section 510(k) of the act.

FDA's decision to grant an exemption from the requirement of premarket notification (section 510(k) of the act) for a generic type of class I device is based upon the existing and reasonably foreseeable characteristics of commercially distributed devices within that generic type. Because FDA cannot anticipate every change in intended use or characteristic that could significantly affect a device's safety or effectiveness, manufacturers of any commercially distributed class I device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification to FDA before introducing or delivering for introduction into interstate commerce for commercial distribution the device when:

(a) The device is intended for a use different from its intended use before May 28, 1976, or the device is intended for a use different from the intended use of a preamendments device to which it has been determined to be substantially equivalent; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only; or

(b) The modified device operates using a different fundamental scientific technology than that in use in the device before May 28, 1976; e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using a deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology.

3. In § 872.1730 by revising paragraph (b), to read as follows:

§ 872.1730 Electrode gel for pulp tester.

* * * * *

(b) *Classification.—Class I.* The device is exempt from the premarket notification procedures of Subpart E of Part 807.

4. In § 872.1905 by revising paragraph (b), to read as follows:

§ 872.1905 Dental X-ray film holder.

* * * * *

(b) *Classification.—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

5. In § 872.3080 by revising paragraph (b), to read as follows:

§ 872.3080 Mercury and alloy dispenser.

* * * * *

(b) *Classification.—Class I.* The

device is exempt from the premarket notification procedures in Subpart E of Part 807.

6. In § 872.3110 by revising paragraph (b), to read as follows:

§ 872.3110 Dental amalgam capsule.

* * * * *

(b) *Classification.—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807.

7. In § 872.3140 by revising paragraph (b), to read as follows:

§ 872.3140 Resin applicator.

* * * * *

(b) *Classification.—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

8. In § 872.3150 by revising paragraph (b), to read as follows:

§ 872.3150 Articulator.

* * * * *

(b) *Classification.—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807.

9. In § 872.3220 by revising paragraph (b), to read as follows:

§ 872.3220 Facebow.

* * * * *

(b) *Classification.—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

10. In § 872.3830 by revising paragraph (b), to read as follows:

§ 872.3830 Endodontic paper point.

* * * * *

(b) *Classification.—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807.

11. In § 872.3840 by revising paragraph (b), to read as follows:

§ 872.3840 Endodontic silver point.

* * * * *

(b) *Classification.—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807.

12. In § 872.3850 by revising paragraph (b), to read as follows:

§ 872.3850 Gutta percha.

* * * * *

(b) *Classification.—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807.

13. In § 872.4565 by revising paragraph (b), to read as follows:

§ 872.4565 Dental hand instrument.

* * * * *

(b) *Classification.—Class I.* If the device is made of the same materials that were used in the device before May 28, 1976, it is exempt from the premarket notification procedures in Subpart E of Part 807.

14. In § 872.6010 by revising paragraph (b), to read as follows:

§ 872.6010 Abrasive device and accessories.

* * * * *

(b) *Classification.—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

15. In § 872.6050 by revising paragraph (b), to read as follows:

§ 872.6050 Saliva absorber.

* * * * *

(b) *Classification.—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

16. In § 872.6200 by revising paragraph (b), to read as follows:

§ 872.6200 Base plate shellac.

* * * * *

(b) *Classification.—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

17. In § 872.6290 by revising paragraph (b), to read as follows:

§ 872.6290 Prophylaxis cup.

* * * * *

(b) *Classification.—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

18. In § 872.6300 by revising paragraph (b), to read as follows:

§ 872.6300 Rubber dam and accessories.

* * * * *

(b) *Classification—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

19. In § 872.6390 by revising paragraph (b), to read as follows:

§ 872.6390 Dental floss.

* * * * *

(b) *Classification—Class I.* If the device is made of the same materials that were used in the device before May 28, 1976, it is exempt from the premarket notification procedures in Subpart E of Part 807.

20. In § 872.6570 by revising paragraph (b), to read as follows:

§ 872.6570 Impression tube.

* * * * *

(b) *Classification—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

21. In § 872.6650 by revising paragraph (b), to read as follows:

§ 872.6650 Massaging pick or tip for oral hygiene.

* * * * *

(b) *Classification—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or

otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

22. In § 872.6670 by revising paragraph (b), to read as follows:

§ 872.6670 Silicate protector.

* * * * *

(b) *Classification—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

23. In § 872.6855 by revising paragraph (b), to read as follows:

§ 872.6855 Manual toothbrush.

* * * * *

(b) *Classification—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

24. In § 872.6870 by revising paragraph (b), to read as follows:

§ 872.6870 Disposable fluoride tray.

* * * * *

(b) *Classification—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

25. In § 872.6880 by revising paragraph (b), to read as follows:

§ 872.6880 Preformed impression tray.

* * * * *

(b) *Classification—Class I.* The device is exempt from the premarket notification procedures in Subpart E of Part 807. If the device is not labeled or otherwise represented as sterile, it also is exempt from the current good manufacturing practice regulations in Part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Dated: June 14, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87-18268 Filed 8-11-87; 8:45 am]

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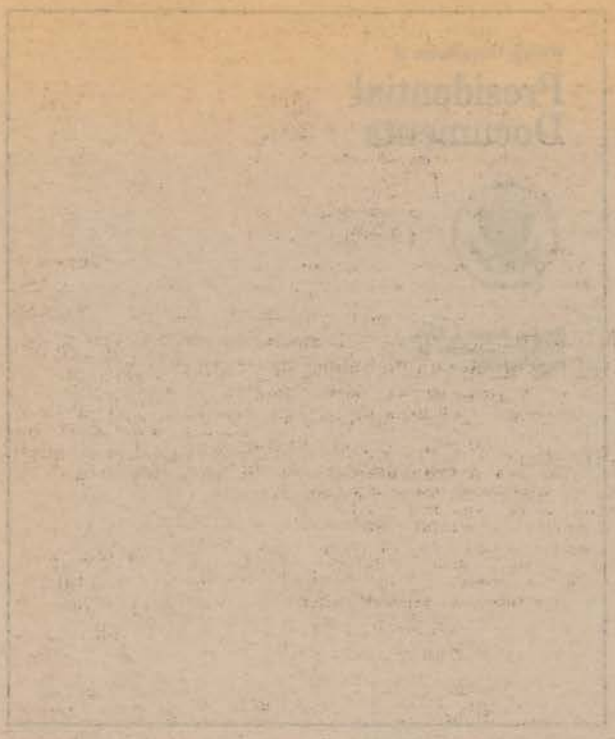

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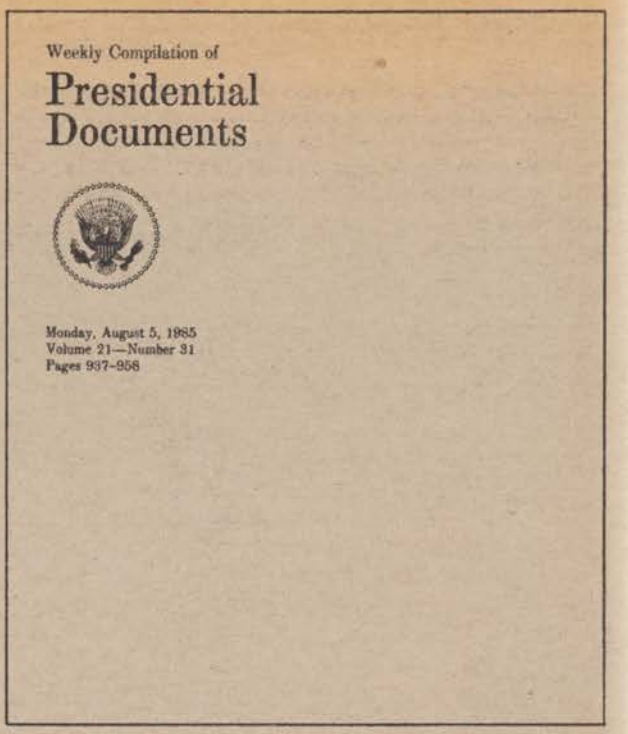

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